

ate adjourn until 10:30 o'clock a. m. tomorrow.

The motion prevailed.

The Senate, accordingly, at 5:00 o'clock p. m., adjourned until 10:30 o'clock a. m. tomorrow.

SEVENTY-FIRST DAY

(Thursday, May 22, 1947)

The Senate met at 10:30 o'clock a. m., pursuant to adjournment, and was called to order by the President.

The roll was called and the following Senators were present:

Aikin	Lane
Brown	Moffett
Bullock	Morris
Carney	Parrish
Chadick	Phillips
Cousins	Proffer
Crawford	Ramsey
Hardeman	Strauss
Harris	Taylor
Hazlewood	Tynan
Jones	Vick
Kelley of Hidalgo	Weinert
Kelly of Tarrant	Winfield
Knight	York

A quorum was announced present.

Reverend J. E. Chester, Chaplain, offered the invocation.

On motion of Senator Winfield, and by unanimous consent, the reading of the Journal of the proceedings of yesterday was dispensed with and the Journal approved.

Leaves of Absence Granted

Senator Stewart was granted leave of absence for today on account of important business on motion of Senator Brown.

Senator Stanford was granted leave of absence for today on account of important business on motion of Senator Crawford.

Reports of Standing Committees

Senator Chadick submitted the following report:

Austin, Texas,
May 22, 1947.

Hon. Allan Shivers, President of the Senate.

Sir: We, your Committee on Public Debts, Claims and Accounts, to whom was referred House Bill No. 831, have had the same under consideration, and I am instructed to report it back to the Senate with the recommendation that it do pass as amended and be not printed.

CHADICK, Chairman.

Senator Carney submitted the following report:

Austin, Texas,
May 22, 1947.

Hon. Allan Shivers, President of the Senate.

Sir: We, your Committee on Civil Jurisprudence, to whom was referred Senate Bill No. 426, wish to report the bill back to the Senate with the recommendation that it do pass and be printed.

CARNEY, Chairman.

Message from the House

Hall of the House of Representatives,
Austin, Texas,
May 21, 1947.

Hon. Allan Shivers, President of the Senate.

Sir: I am directed by the House to inform the Senate that the House has passed the following resolutions:

The House refused to concur in Senate amendments to House Bill No. 246 and has requested the appointment of a Conference Committee to consider the differences between the two Houses.

The House appointed the following conferees on the part of the House: Gilmer, Bean, Smith of Lubbock, Helpenstill, and Etheredge.

H. C. R. No. 130, Commending the Interstate Commerce Commission as to decisions on freight rate equality.

H. C. R. No. 142, Granting each House permission to adjourn from Thursday, May 22, 1947, to Monday, May 26, 1947, 10 a. m.

The House has granted the request of the Senate for the appointment of a Conference Committee on Senate Bill No. 227.

The following conferees have been appointed on the part of the House:

Templeton, Sadler, Peters, Sallas, and Mangum.

The House has adopted the Conference Committee Report on House Bill No. 168 by a vote of 110 ayes, 5 noes.

The House has granted the request of the Senate for the appointment of a Conference Committee on Senate Bill No. 167 by a vote of 78 ayes, 28 noes.

The following conferees have been appointed on the part of the House: Johnson, Kilgore, Bell of De Witt, Bell of Bexar, and McVey.

Respectfully submitted.

CLARENCE JONES,
Chief Clerk, House of Representatives.

Senate Bill 432 on First Reading

Senator Strauss moved that the rules adopted pursuant to Section 5 of Article III of the State Constitution be suspended to permit his introducing at this time a bill, the provisions of which he explained.

The motion prevailed by the following vote:

Yeas—27

Aikin	Lane
Brown	Moffett
Bullock	Morris
Carney	Parrish
Chadick	Phillips
Cousins	Proffer
Crawford	Ramsey
Hardeman	Strauss
Harris	Taylor
Hazlewood	Tynan
Jones	Vick
Kelley of Hidalgo	Weinert
Kelly of Tarrant	Winfield
Knight	

Absent

York

Absent—Excused

Mauritz	Stewart
Stanford	

The following bill then was introduced, read first time and referred to the Committee on State Affairs:

S. B. No. 432, A bill to be entitled "An Act exempting from taxation institutions or organizations known as the Girl Scouts of America or local organizations of or affiliated with the Girl Scouts of America; and declaring an emergency."

Senate Bill 433 on First Reading

Senator Tynan moved that the rules adopted pursuant to Section 5 of Article III of the State Constitution be suspended to permit his introducing at this time a bill, the provisions of which he explained.

The motion prevailed by the following vote:

Yeas—28

Aikin	Lane
Brown	Moffett
Bullock	Morris
Carney	Parrish
Chadick	Phillips
Cousins	Proffer
Crawford	Ramsey
Hardeman	Strauss
Harris	Taylor
Hazlewood	Tynan
Jones	Vick
Kelley of Hidalgo	Weinert
Kelly of Tarrant	Winfield
Knight	York

Absent—Excused

Mauritz	Stewart
Stanford	

The following bill then was introduced, read first time and referred to the Committee on Counties and County Boundaries:

S. B. No. 433, A bill to be entitled "An Act providing for the appointment and compensation of deputies, assistants, and employees in all County and District offices except the District Attorney and the Criminal District Attorney in counties having a population of more than three hundred thousand (300,000) inhabitants and less than five hundred thousand (500,000) inhabitants, according to the last preceding Federal Census; and repealing Senate Bill No. 303, Acts, 1947, 50th Legislature, and all other laws in conflict herewith, as applied to counties within the provisions of this Act; and declaring an emergency."

Senate Bill 434 on First Reading

Senator Lane moved that the rules adopted pursuant to Section 5 of Article III of the State Constitution be suspended to permit his introducing at this time a bill, the provisions of which he explained.

The motion prevailed by the following vote:

Yeas—28

Aikin	Lane
Brown	Moffett
Bullock	Morris
Carney	Parrish
Chadick	Phillips
Cousins	Proffer
Crawford	Ramsey
Hardeman	Strauss
Harris	Taylor
Hazlewood	Tynan
Jones	Vick
Kelley of Hidalgo	Weinert
Kelly of Tarrant	Winfield
Knight	York

Absent—Excused

Mauritz	Stewart
Stanford	

The following bill then was introduced, read first time and referred to the Committee on Insurance:

S. B. No. 434, A bill to be entitled "An Act authorizing the Industrial Accident Board of the State of Texas to transfer certain useless files and records to the State Board of Control for sale or destruction; directing said State Board of Control to receive said records for such purposes; and declaring an emergency."

Senate Concurrent Resolution 49

Senator Knight offered the following resolution:

S. C. R. No. 49, Requesting the Governor to return S. B. No. 148 to the Senate for further consideration.

Be it Resolved by the Senate of Texas, the House of Representatives concurring, that the Governor be requested to return to the Senate, S. B. 148, so that same may be corrected to state clearly its provisions and purposes.

The resolution was read.

On motion of Senator Knight, and by unanimous consent, the resolution was considered immediately and was adopted.

Senate Resolution 115

(Extending Welcome to Students and Principal of Oak Grove High School)

Senator Strauss offered the following resolution:

Whereas, A group of students from the Oak Grove Rural High School of Lavaca County, Texas, together with their principal, Mr. Henry Kahlich, are now visitors in the City of Austin, and

Whereas, This group is now present in the Senate gallery as guests of the Senate, and it is the desire of the Senate to recognize their presence; now therefore, be it

Resolved, By the Senate, that we extend to them a hearty welcome and that a copy of this resolution, under seal of the Senate, be forwarded to the Oak Grove Rural High School.

The resolution was read and was adopted.

Senate Bill 435 on First Reading

Senator Phillips moved that the rules adopted pursuant to Section 5 of Article III of the State Constitution be suspended to permit his introducing at this time a bill, the provisions of which he explained.

The motion prevailed by the following vote:

Yeas—28

Aikin	Lane
Brown	Moffett
Bullock	Morris
Carney	Parrish
Chadick	Phillips
Cousins	Proffer
Crawford	Ramsey
Hardeman	Strauss
Harris	Taylor
Hazlewood	Tynan
Jones	Vick
Kelley of Hidalgo	Weinert
Kelly of Tarrant	Winfield
Knight	York

Absent—Excused

Mauritz	Stewart
Stanford	

The following bill then was introduced, read first time and referred to the Committee on Civil Jurisprudence:

S. B. No. 435, A bill to be entitled "An Act provided that whenever any city or town incorporated under general law or having a special charter may have outstanding unpaid revenue bonds issued for the purchase price, in whole or in part, of wharf and terminal facilities, or an interest

therein, theretofore purchased by such city or town, which are subject to call and redemption prior to their maturity and are secured by an encumbrance on such wharf and terminal facilities, or an interest therein, and a pledge of the revenues thereof, such city or town, through its governing body subject to the requirements, conditions and restrictions prescribed in this act, may issue its negotiable bonds to be paid with taxes for the purpose of redeeming such revenue bonds, prescribing rights of such city or town to participation in the revenues of such wharf and terminal facilities upon the redemption of such revenue bonds so made, providing that the right of any city or town to payment from revenues of the properties created by contract under which revenue bonds have been issued shall remain in force unaffected by this Act; and declaring an emergency."

Senate Bill 74 with House Amendments

Senator Kelley of Hidalgo called S. B. No. 74 from the President's table for consideration of the House amendments to the bill.

The President laid the bill and House amendments before the Senate, and the House amendments were read.

On motion of Senator Kelley of Hidalgo, the Senate concurred in the House amendments.

Motion to Set House Bill 371 as Special Order

Senator Kelly of Tarrant moved that House Bill No. 371 be set as a special order for Wednesday, May 28, 1947, immediately following the morning call.

Senator Hardeman moved to amend the motion of Senator Kelly of Tarrant by changing the date from Wednesday, May 28, 1947 to Monday, September 6, 1948.

Question first recurring on the motion to amend by Senator Hardeman, yeas and nays were demanded.

The motion prevailed by the following vote:

Yeas—15

Brown	Cousins
Bullock	Hardeman
Carney	Jones

Lane	Taylor
Moffett	Vick
Parrish	Weinert
Ramsey	York
Strauss	

Nays—12

Aikin	Knight
Chadick	Morris
Crawford	Phillips
Harris	Proffer
Kelley of Hidalgo	Tynan
Kelly of Tarrant	Winfield

Absent

Hazlewood

Absent—Excused

Mauritz	Stewart
Stanford	

Question—Shall the motion of Senator Kelly, as amended, prevail?

Senator Kelly then withdrew the motion.

House Bill 297 on Passage to Third Reading

The President laid before the Senate, as unfinished business, on its passage to third reading:

H. B. No. 297, A bill to be entitled "An Act to amend Article 883 of the Revised Civil Statutes of Texas, 1925, by adding thereto a new provision to be known as 'Article 883 (a)' providing for the declaration of the reasonable value of household goods; personal effects and used office furniture and equipment by the shipper, owner or his agent at the time same are tendered to specialized motor carriers or other carriers for hire for transportation; fixing the liability in damage of such carriers for the loss, destruction, damage or delay in transit of such property; providing the Railroad Commission of Texas shall approve and establish adequate rates consistent with such declared values; that if the Railroad Commission fails or refuses to approve and establish such rates then it shall be the duty of such carriers to assess and collect reasonable transportation charges consistent with the declared value of such property; repealing all laws in conflict herewith; and declaring an emergency."

The bill having been read second time on Thursday, May 15, 1947, and the main question on the passage of the bill to third reading, having been ordered on yesterday.

Question—Shall the bill be passed to third reading?

Senator Chadick, by unanimous consent, moved to reconsider the vote by which the amendment offered by him on yesterday, adding a new section to the bill to be known as "Section 1, a," was adopted.

The motion to reconsider prevailed.

Senator Chadick then withdrew the amendment.

By unanimous consent, Senator Chadick then moved to reconsider the vote by which the amendment by Senator Vick, offered on Thursday, May 15, 1947 was adopted.

The motion to reconsider prevailed. Senator Vick then withdrew the amendment.

Senator Chadick then offered the following amendment to the bill:

Amend H. B. 297 by adding a new Section thereto to be numbered 2, and changing the numbers of the remaining Sections to correspond. Such new section to read as follows:

"Section 2. The declaration of value by the shipper shall not be admissible as evidence in any court action unless the carrier at the time of acceptance of such shipments has maintained in force insurance in a solvent company authorized to do business in Texas, or bonds, in an amount equal to such declared value to protect the owner of such shipment against loss or damage thereto; provided, however, this requirement as to insurance or bonds shall not apply to steam or electrical railways."

The amendment was unanimously adopted.

(Senator Weinert in the Chair.)

On motion of Senator Tynan, and by unanimous consent, the caption was amended to conform with the body of the bill as amended.

H. B. No. 297 was then passed to third reading.

House Bill 297 on Third Reading

Senator Tynan moved that the constitutional rule requiring bills to be read on three several days be sus-

pended and that House Bill No. 297 be placed on its third reading and final passage.

The motion prevailed by the following vote:

Yeas—21

Aikin	Moffett
Bullock	Parrish
Carney	Phillips
Cousins	Proffer
Crawford	Strauss
Hardeman	Taylor
Harris	Tynan
Hazlewood	Vick
Jones	Weinert
Kelly of Tarrant	Winfield
Knight	

Nays—2

Chadick	Lane
---------	------

Absent

Brown	Ramsey
Kelley of Hidalgo	York
Morris	

Absent—Excused

Mauritz	Stewart
Stanford	

The Presiding Officer then laid the bill before the Senate on its third reading and final passage.

The bill was read third time and was passed by the following vote:

Yeas—24

Aikin	Moffett
Brown	Parrish
Bullock	Phillips
Carney	Proffer
Cousins	Ramsey
Crawford	Strauss
Hardeman	Taylor
Harris	Tynan
Jones	Vick
Kelley of Hidalgo	Weinert
Kelly of Tarrant	Winfield
Knight	York

Nays—2

Chadick	Lane
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Absent

Hazlewood	Morris
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Absent—Excused

Mauritz	Stewart
Stanford	

House Bill 52 on Second Reading

On motion of Senator Aikin, and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to third reading:

H. B. No. 52, A bill to be entitled "An Act providing for and regulating appropriations for moneys in the State Treasury not otherwise appropriated to supplement local funds for the support, maintenance, operation, and improvement of the Public Junior Colleges of Texas as named in this Act; providing all funds allocated under the provisions of this Act with the exception of those necessary for paying the costs of audits as provided herein shall be used exclusively for the purpose of paying salaries of the instructional forces of the several institutions; providing for an annual appropriation of Nine Hundred Twenty-five Thousand Dollars (\$925,000) for each of the fiscal years beginning September 1, 1947, and September 1, 1948, respectively and for allocation thereof; determining the eligibility of a Public Junior College and providing for collection of certain fees from students; defining the term 'fulltime student' and excepting certain students; providing for disposition of unused funds; providing no funds shall be paid to any institution under the provisions of this Act until payment has been approved by the State Auditor after he has audited the books and providing the cost of auditing the books for the institution shall be paid out of the funds allocated herein; and declaring an emergency."

The bill was read second time and was passed to third reading.

House Bill 52 on Third Reading

Senator Aikin moved that the constitutional rule requiring bills to be read on three several days be suspended and that House Bill No. 52 be placed on its third reading and final passage.

The motion prevailed by the following vote:

Yeas—24

Aikin	Chadick
Brown	Cousins
Bullock	Crawford
Carney	Hardeman

Hazlewood	Ramsey
Jones	Strauss
Knight	Taylor
Lane	Tynan
Moffett	Vick
Parrish	Weinert
Phillips	Winfield
Proffer	York

Nays—3

Harris	Morris
Kelly of Tarrant	

Absent

Kelley of Hidalgo

Absent—Excused

Mauritz	Stewart
Stanford	

The Presiding Officer then laid the bill before the Senate on its third reading and final passage.

The bill was read third time and was passed.

Record of Votes

Senators Harris, Weinert and Kelly of Tarrant asked to be recorded as voting "nay" on the final passage of the bill.

Message from the House

Hall of the House of Representatives,
Austin, Texas,
May 22, 1947.

Hon. Allan Shivers, President of the Senate.

Sir: I am directed by the House to inform the Senate that the House has passed the following resolutions:

The House refused to pass S. C. R. No. 46, it being ruled out of order as being identical with a House Concurrent Resolution defeated on May 21, 1947.

S. C. R. No. 47, Relative to memorializing Congress to enact House Resolution No. 881 and House Resolution No. 1199, granting tax exemptions to those held prisoners by the Japanese.

Respectfully submitted,
CLARENCE JONES,
Chief Clerk, House of Representatives.
(President in the Chair.)

Motion to Reconsider Vote on Adoption of Conference Report on House Bill 244

Senator Kelley of Hidalgo submitted the following motion in writing:

To the President of the Senate:

I move that the Senate reconsider the vote by which the Senate voted to adopt the Conference Committee report on House Bill No. 244 and I move that the Senate request the House to return said bill to the Senate for further consideration.

I request that this motion to reconsider be spread on the Journal of the Senate.

The motion was lost by the following vote:

Yeas—9

Bullock	Ramsey
Chadick	Strauss
Hazlewood	Vick
Kelley of Hidalgo	York
Lane	

Nays—17

Aikin	Knight
Brown	Moffett
Carney	Phillips
Cousins	Proffer
Crawford	Taylor
Hardeman	Tynan
Harris	Weinert
Jones	Winfield
Kelly of Tarrant	

Absent

Morris	Parrish
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Absent—Excused

Mauritz	Stewart
Stanford	

House Bill 542 on Second Reading

On motion of Senator Aikin, and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to third reading:

H. B. No. 542, A bill to be entitled "An Act appropriating the sum of One Million Eight Hundred Ten Thousand and Four Hundred Fifty-six and no/100 (\$1,810,456.00) Dollars per year or so much thereof as may be necessary for the next biennium beginning September 1, 1947, and ending August 31, 1949, from the General Revenue Fund for the purpose of promoting public school interests and assisting local districts in the teaching of vocational agriculture, home economics, trades and industries, distributive education and

for the vocational rehabilitation of disabled persons according to the Federal laws governing vocational education, all of which shall be matched by Federal funds; providing for the administration, attaching conditions, regulations, and limitations relative thereto; making various allocations of said appropriations; etc., and declaring an emergency."

The bill was read second time and was passed to third reading.

House Bill 542 on Third Reading

Senator Aikin moved that the constitutional rule requiring bills to be read on three several days be suspended and that House Bill No. 542 be placed on its third reading and final passage.

The motion prevailed by the following vote:

Yeas—28

Aikin	Lane
Brown	Moffett
Bullock	Morris
Carney	Parrish
Chadick	Phillips
Cousins	Proffer
Crawford	Ramsey
Hardeman	Strauss
Harris	Taylor
Hazlewood	Tynan
Jones	Vick
Kelley of Hidalgo	Weinert
Kelly of Tarrant	Winfield
Knight	York

Absent—Excused

Mauritz	Stewart
Stanford	

The President then laid the bill before the Senate on its third reading and final passage.

The bill was read third time and was passed.

Report of Conference Committee on Senate Bill 167

Senator Ramsey submitted the following report:

Austin, Texas,
May 20, 1947.

Hon. Allan Shivers, President of the Senate.

Hon. W. O. Reed, Speaker of the House of Representatives.

Sirs: We, your Conference Com-

mittee, appointed to adjust the differences between the Senate and the House on Senate Bill No. 167, have met and beg leave to recommend that said Senate Bill No. 167 be passed in the form hereto attached.

Respectfully submitted,

RAMSEY
WEINERT
PHILLIPS
CARNEY
TAYLOR

On the Part of the Senate.

JOHNSON
BELL of Bexar
KILGORE
BELL of De Witt

On the Part of the House.

S. B. No. 167

By Ramsey

A BILL

To Be Entitled

"An Act to prohibit secondary strikes, secondary picketing, and secondary boycotts; defining terms; providing a penalty; providing damages; providing for the enforcement by authorizing injunctions; fixing venue; repealing all laws in conflict herewith; providing a savings clause; and declaring an emergency."

Be It Enacted by the Legislature of the State of Texas:

Section 1. It shall be unlawful for any person or persons, or association of persons, or any labor union, incorporated or unincorporated, or the members or agents thereof, acting singly or in concert with others, to establish, call, participate in, aid or abet a secondary strike, or secondary picketing, or a secondary boycott, as those terms are defined herein.

Sec. 2. As used in this Act:

a. The term "labor union" means every association, group, union, national and local, branch or subordinate organization of any union of working men, incorporated or unincorporated, organized and existing in part for the purpose of protecting themselves and improving their working conditions, wages, or employment relationships in any manner, and shall include the local, state, national and international affiliates of such organizations or unions.

b. "Secondary strike" shall mean a temporary stoppage of work by the concerted action of two or more employees of an employer where no labor dispute exists between the em-

ployer and such employees, and where such temporary stoppage results from a labor dispute to which such two or more employees are not parties.

c. The term "picket" shall include any person stationed by or acting in behalf of any organization for the purpose of inducing anyone not to enter the premises in question; or for apprising the public by signs, banners, or other means, of the existence of a labor dispute; or for observing the premises so as to ascertain who enters or patronizes the same; or any person who by any means follows employees or patrons of the place being picketed either to or from such place so as to either observe them or to attempt to persuade them to cease entering or patronizing the premises being picketed.

d. The term "secondary picketing" shall mean the act of establishing a picket or pickets at or near the premises of any employer where no labor dispute, as that term is defined in this Act, exists between such employer and his employees.

e. The term "secondary boycott" shall include any combination, plan, agreement or compact entered into or any concerted action by two or more persons to cause injury or damage to any person, firm or corporation for whom they are not employees, by

(1) Withholding patronage, labor or other beneficial business intercourse from such person, firm or corporation; or

(2) Picketing such person, firm or corporation; or

(3) Refusing to handle, install, use or work on the equipment or supplies of such person, firm or corporation; or

(4) Instigating or fomenting a strike against such person, firm or corporation; or

(5) Interfering with or attempting to prevent the free flow of commerce; or

(6) By any other means causing or attempting to cause an employer with whom they have a labor dispute to inflict any damage or injury to an employer who is not a party to such labor dispute.

f. The term "employer" means any person, firm or corporation who engages the services of an employee.

g. The term "employee" shall include any person, other than an in-

dependent contractor, working for another for hire in the State of Texas.

h. The term "labor dispute" is limited to and means any controversy between an employer and the majority of his employees concerning wages, hours or conditions of employment; provided that if any of the employees are members of a labor union, a controversy between such employer and a majority of his employees belonging to such union, concerning wages, hours or conditions of employment shall be deemed, as to the employee members only of such union, a labor dispute within the meaning of this Act.

Sec. 3. Any person who shall violate any of the provisions of this Act shall be guilty of a misdemeanor, and upon conviction thereof shall be punished by fine not exceeding Five Hundred Dollars (\$500.00) or by confinement in the county jail not to exceed six months, or by both such fine and imprisonment.

Sec. 4. Any person who violates any of the provisions of this Act shall be liable to the person suffering the same for all damages, resulting therefrom, and the person damaged is hereby given right of action and access to the courts to redress such wrong or damage, including injunctive relief; and any association or labor union, local, state, national or international, which represents or purports to represent any such person violating any of the provisions of this Act shall be jointly and severally liable with any such person for all such damages resulting thereby.

Sec. 5. The State of Texas, through its Attorney General or any district or county attorney, may institute a suit in the district court to enjoin any person, association of persons, labor union, firm or corporation, or any officer, agent, servant or employee of such person, association of persons, labor union, firm or corporation, from violating any provision of this Act.

Sec. 6. In any such suit or cause of action arising under this Act, venue shall lie: (1) in the county where such violation is alleged to have occurred; (2) in the county of the residence of the defendant; (3) in the county of the residence of either defendant if there be two or more defendants.

Sec. 7. All laws and parts of laws in conflict herewith are hereby repealed.

Sec. 8. If any section, sentence, phrase or part of this Act shall be held unconstitutional, such unconstitutionality shall not affect the validity of the remaining portions thereof; it being the intention of the Legislature to pass the constitutional sections, sentences, phrases and parts of this Act even though some one or more sections, sentences, phrases or parts shall be held to be invalid.

Sec. 9. Because secondary strikes, secondary picketing and secondary boycotts are unfair economic weapons, and because the use of these economic weapon denies our citizen the right to work, and the right to work is the right to live; and because the use of these economic weapons is an infringement of the constitutional guaranteed right of every citizen to conduct his lawful business in a lawful manner; and because these economic weapons contravene the public interest and violate our constitution; and because of the fact that existing laws do not adequately protect the public against the abuse and illegal acts involved in secondary strikes, secondary picketing and secondary boycotts, and there being an urgent need for such protection of the public, which need is so found to exist, there is an emergency and an imperative public necessity that the Constitutional Rule requiring bills to be read on three several days be suspended, and that this Act take effect from and after its passage; and such rule is hereby suspended, and this Act shall take effect from and after its passage, and it is so enacted.

The report was read and was adopted.

House Concurrent Resolution 142

The President laid before the Senate for consideration at this time:

H. C. R. No. 142, Granting each House permission to adjourn from Thursday, May 22, 1947, until Monday, May 26, 1947.

The resolution was read and was adopted.

Conference Committee on House Bill 246

Senator Taylor called from the President's table, for consideration at

this time, the request of the House for a conference committee to adjust the differences between the two Houses on House Bill No. 246 and moved that the request be granted.

The motion to grant the request prevailed.

Accordingly, the President announced the appointment of the following conferees on the bill on the part of the Senate: Senators Taylor, Aikin, Morris, Weinert, and Knight.

House Bill 727 on Second Reading

Senator Harris moved to suspend the regular order of business to take up House Bill No. 727 for consideration at this time.

The motion prevailed by the following vote:

Yeas—20

Brown	Lane
Bullock	Morris
Chadick	Parrish
Cousins	Phillips
Crawford	Ramsey
Hardeman	Strauss
Harris	Taylor
Hazlewood	Tynan
Jones	Vick
Kelly of Tarrant	York

Nays—6

Aikin	Proffer
Knight	Weinert
Moffett	Winfield

Absent

Carney	Kelley of Hidalgo
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Absent—Excused

Mauritz	Stewart
Stanford	

The President then laid before the Senate, on its second reading and passage to third reading:

H. B. No. 727, Amending the Texas Liquor Control Act; defining the term Texas Liquor Control Act; providing savings clauses; repealing laws in conflict herewith; and declaring an emergency.

The bill was read second time.

Senator Harris offered the following amendment to the bill:

Amend House Bill No. 727, Subsection 31 of Section 7, at page 14 of such bill as engrossed by the House by striking out the words "and alcoholic content" at the end of the first sentence thereof and by striking out the "comma" following the word "measure" and substituting a "period" in lieu thereof, and by striking out the "comma" following the word "purity" and substituting the word "and" in lieu thereof.

The amendment was adopted.

Question—Shall the bill be passed to third reading?

House Concurrent Resolution on First Reading

The following House Concurrent resolution received from the House was laid before the Senate, read first time, and referred to the committee indicated:

H. C. R. No. 115, to Committee on State Affairs.

Bills Signed

The President signed in the presence of the Senate, after giving due notice thereof, the following enrolled bills:

H. B. No. 873, A bill to be entitled "An Act finding and declaring that the disastrous explosions and fires at Texas City in Galveston County, Texas, on the morning of April 16, 1947, and during the succeeding several days, is a case of great public calamity in the City of Texas City and in Texas City Independent School District; and finding that the public welfare of the whole people demands a speedy rehabilitation of the public buildings and improvements in said City and School District, and their continuous normal functioning as governmental agencies; and providing that for the purpose of aiding and assisting the City of Texas City and Texas City Independent School District, there is granted and donated to the City of Texas City and the Texas City Independent School District equally all State ad valorem taxes for general purposes levied and collected on all property in Galveston County, Texas, for certain years; providing for the administration of this Act; the levying and collection of the taxes and the manner and means for remitting same to said City of Texas City and Texas City Independent School District, the uses to be made

of such funds; declaring the Act to be severable; and declaring an emergency."

H. B. No. 244, A bill to be entitled "An Act making an appropriation for the support and maintenance of the Judiciary of the State of Texas for the biennium beginning September 1, 1947, and ending August 31, 1949; requiring certain fees paid to clerks or officers of all Appellate Courts to be deposited monthly in the State Treasury; prescribing certain rules and restrictions respecting the expenditures of appropriations made herein; suspending all laws in conflict herewith; declaring the invalidity of any portion of this Act shall not affect any other portion; and declaring an emergency."

H. B. No. 495, A bill to be entitled "An Act to amend Section 2, House Bill No. 903, Acts of the Regular Session of the Forty-sixth Legislature so as to make it possible for dishes, receptacles, or utensils to be sterilized with a chlorine solution; and declaring an emergency."

Reports of Standing Committees

By unanimous consent, the following reports were submitted at this time:

Austin, Texas,
May 22, 1947.

Hon. Allan Shivers, President of the Senate.

Sir: We, your Committee on Counties and County Boundaries, to whom was referred Senate Bill No. 433, have had same under consideration, and I am instructed to report it back to the Senate with the recommendation that it do pass and be mimeographed.

JONES, Chairman.

Austin, Texas,
May 21, 1947.

Hon. Allan Shivers, President of the Senate.

Sir: We, your Committee on Civil Jurisprudence, to whom was referred House Bill No. 494, have had the same under consideration and we are instructed to report it back to the Senate with recommendation that it do pass and be printed.

CARNEY, Chairman.

Austin, Texas,
May 12, 1947.

Hon. Allan Shivers, President of the Senate.

Sir: We, your Committee on Civil Jurisprudence, to whom was referred House Bill No. 591, have had the same under consideration, and I am instructed to report it back to the Senate with the recommendation that it do pass and be printed.

CARNEY, Chairman.

Austin, Texas,
May 12, 1947.

Hon. Allan Shivers, President of the Senate.

Sir: We, your Committee on Civil Jurisprudence, to whom was referred House Bill No. 592, have had the same under consideration, and I am instructed to report it back to the Senate with the recommendation that it do pass and be printed.

CARNEY, Chairman.

Austin, Texas,
May 15, 1947.

Hon. Allan Shivers, President of the Senate.

Sir: We, your Committee on Civil Jurisprudence, to whom was referred House Bill No. 590, have had the same under consideration, and I am instructed to report it back to the Senate with the recommendation that it do pass and be printed.

CARNEY, Chairman.

Austin, Texas,
May 22, 1947.

Hon. Allan Shivers, President of the Senate.

Sir: We, your Committee on Civil Jurisprudence, to whom was referred Senate Bill No. 435, have had the same under consideration, and I am instructed to report it back to the Senate with the recommendation that it do pass and be not printed.

CARNEY, Chairman.

Austin, Texas,
May 21, 1947.

Hon. Allan Shivers, President of the Senate.

Sir: We, your Committee on Game and Fish, to whom was referred House Bill No. 842, wish to report the bill back to the Senate with the recommendation that it do pass and be printed.

CARNEY, Chairman.

Recess

Senator Weinert moved that the Senate recess to 2:30 o'clock p. m., today.

Senator Lane moved that the Senate adjourn until 10:30 o'clock a. m., Monday, May 26, 1947.

Question first recurring on the motion of Senator Lane, yeas and nays were demanded.

The motion was lost by the following vote:

Yeas—6

Carney	Lane
Chadick	Proffer
Hardeman	Winfield

Nays—19

Aikin	Moffett
Brown	Parrish
Bullock	Phillips
Cousins	Strauss
Crawford	Taylor
Harris	Tynan
Hazlewood	Vick
Jones	Weinert
Kelly of Tarrant	York
Knight	

Absent

Kelley of Hidalgo	Ramsey
Morris	

Absent—Excused

Mauritz	Stewart
Stanford	

Question recurring on the motion of Senator Weinert, it prevailed.

The Senate, accordingly, at 12:20 o'clock p. m., took recess to 2:30 o'clock p. m., today.

Afternoon Session

The Senate met at 2:30 o'clock p. m., and was called to order by Senator Aikin.

Reports of Standing Committees

By unanimous consent, the following reports were submitted at this time:

Austin, Texas,
May 21, 1947.

Hon. Allan Shivers, President of the Senate.

Sir: We, your Committee on Game and Fish, to whom was referred House Bill No. 223, have had the same under

consideration, and I am instructed to report it back to the Senate with the recommendation that it do not pass, but that the Committee Substitute do pass in lieu thereof, and be printed.

CARNEY, Chairman.

C. S. H. B. No 223 was read first time.

Austin, Texas,
May 22, 1947.

Hon. Allan Shivers, President of the Senate.

Sir: We, your Committee on State Affairs, to whom was referred H. C. R. No. 115, have had the same under consideration, and I am instructed to report it back to the Senate with the recommendation that it do pass and be not printed.

MOFFETT, Chairman.

Austin, Texas,
May 22, 1947.

Hon. Allan Shivers, President of the Senate.

Sir: We, your Committee on Oil, Gas and Conservation, to whom was referred Senate Bill No. 431, have had the same under consideration, and I am instructed to report it back to the Senate with the recommendation that it do pass and be printed.

WINFIELD, Chairman.

Senate Concurrent Resolution 50

Senator Hardeman offered the following resolution:

S. C. R. No. 50, Suspending Joint Rules to consider Senate Bill No. 296 on House bill day.

Be it resolved by the Senate, the House of Representatives concurring, that the Joint Rules prohibiting the consideration of Senate bills in the Senate on House bill day be, and the same are hereby suspended for the purpose of permitting the consideration of Senate Bill No. 296 by the Senate today.

HARDEMAN
TAYLOR.

The resolution was read.

On motion of Senator Hardeman, and by unanimous consent, the resolution was considered immediately and was adopted.

Leaves of Absence Granted

Senator Proffer was granted leave

of absence for today on account of important business, on motion of Senator Taylor.

Senator Kelley of Hidalgo was granted leave of absence for the remainder of the day, on account of important business, on motion of Senator Jones.

House Bill 727 on Passage to Third Reading

The Senate resumed consideration of pending business, same being House Bill No. 727, on its passage to third reading.

Question—Shall the bill be passed to third reading?

Senator Harris offered the following amendment to the bill:

Amend House Bill No. 727 by adding a new section thereto in Section V immediately following Sec. 5(a) and reading and numbered as follows:

"Sec. 15½. It shall be unlawful for any holder of a Distiller's Permit or Rectifier's Permit, or for any officer, director, agent or employee thereof, or for any affiliate, whether corporate or by management, direction or control, to own, have or hold any interest in the permit, business, assets or corporate stock of the holder of any Wholesaler's Permit.

"It shall be unlawful for the holder of any Wholesaler's Permit to be affiliated with the holder of any Distiller's Permit or Rectifier's Permit, either directly or indirectly, or by or through any officer, director, agent or employee or by management, direction or control."

Senator Chadick raised a point of order against consideration of the amendment at this time on the ground that there was not a quorum present.

The Presiding Officer, Senator Aikin in the Chair, directed the Secretary to call the roll.

The roll was called and the following Senators answered to their names:

Aikin	Jones
Brown	Kelly of Tarrant
Bullock	Knight
Chadick	Lane
Cousins	Strauss
Crawford	Taylor
Hardeman	Weinert
Harris	Winfield

The Presiding Officer announced that there was not a quorum present.

Call of the Senate

Senator Harris moved a call of the Senate for the purpose of securing and maintaining a quorum until the disposition of H. B. No. 727, on its passage to third reading, and the call was duly seconded.

The call of the Senate was ordered by the following vote:

Yeas—11

Aikin	Jones
Brown	Kelly of Tarrant
Bullock	Strauss
Cousins	Taylor
Crawford	Tynan
Harris	

Nays—7

Chadick	Moffett
Hardeman	Weinert
Knight	Winfield
Lane	

Absent

Carney	Phillips
Hazlewood	Ramsey
Morris	Vick
Parrish	York

Absent—Excused

Kelley of Hidalgo	Stanford
Mauritz	Stewart
Proffer	

The Sergeant-at-Arms was instructed to enforce the attendance of all members who are not ill or excused.

After a brief interval, the Presiding Officer again directed the Secretary to call the roll.

The roll was called and the following Senators answered to their names:

Aikin	Knight
Brown	Lane
Bullock	Moffett
Chadick	Stewart
Cousins	Strauss
Crawford	Taylor
Hardeman	Tynan
Harris	Vick
Hazlewood	Weinert
Jones	Winfield
Kelly of Tarrant	

The Presiding Officer announced that there was a quorum present.

Question then recurring on the amendment, it was adopted.

Senator Harris offered the following amendment to the bill:

Amend H. B. No. 727, Section IV, by inserting the following at the beginning of said section:

"Section 17. (1). It shall be unlawful for any person holding a Package Store Permit or a Wine-only Package Store Permit, or owning an interest in a package store, or a Wine-only Package Store, to have any interest, either directly or indirectly, in a Wine and Beer Retailer's Permit, or Beer Retailer's License, or the business thereof. The restriction against any person who is the holder of a Package Store Permit or a Wine-only Package Store Permit, or the owner of an interest in a Package Store or a Wine-only Package Store having any interest either directly or indirectly in a Beer Retail Dealer's Off-Premise License shall not be applicable provided the Package Store Permit or the Wine-only Package Store Permit and the Beer Retail Dealer's Off-Premise License are issued for the same address."

The amendment was adopted.

Senator Harris offered the following amendment to the bill:

Amend H. B. 727, Section VII, by adding a new Subsection thereto to be numbered and read as follows:

"Sec. 3 (c) 1. No General Distributor's License, Local Distributor's License, or Branch Distributor's License applied for under the terms of this Act shall be issued to any person upon application either for an original license or for any license sought to be transferred from another location when the premises for which a license is sought is licensed under a Package Store Permit, or a Wine-only Package Store Permit."

The amendment was adopted.

On motion of Senator Harris and by unanimous consent, the caption was amended to conform with the body of the bill as amended.

Senator Winfield offered the following amendment to the bill:

Amend H. B. 727 by adding a new section thereto in Section V immediately following Sec. 5(a) and reading and numbered as follows:

"Section 32-a. In any county in this State where the sale of one or more types of alcoholic beverages therein is lawful, or may hereafter be legalized by county-wide vote, it

shall be lawful, nevertheless, to prohibit, under the provisions of this Act, the sale of one or more of such types in any justice's precinct or incorporated city or town of such county. When any county in this State, subsequent to the adoption of the present Section 20 of Article 16 of the State Constitution, shall have prohibited the sale of one or more types of alcoholic beverages therein, such prohibition shall be in force in all parts of the county, except within the limits of any justice's precinct or incorporated city or town within such county which may legalize thereafter, by local option, under the provisions of this Act, the sale therein of one or more of such types of alcoholic beverages.

"The enactment of this provision shall not affect the existing wet or dry status heretofore established for any area under the Constitution and laws of this State, except as such status may be charged hereafter under the procedure provided in this Act."

(President in the Chair.)

Question recurring on the amendment, yeas and nays were demanded.

The amendment was adopted by the following vote:

Yeas—15

Brown	Strauss
Cousins	Taylor
Crawford	Tynan
Harris	Vick
Hazlewood	Weinert
Kelly of Tarrant	Winfield
Phillips	York
Ramsey	

Nays—9

Aikin	Lane
Bullock	Moffett
Chadick	Morris
Hardeman	Parrish
Knight	

Absent

Carney	Jones
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Absent—Excused

Kelley of Hidalgo	Stanford
Mauritz	Stewart
Proffer	

Senator Vick offered the following amendment to the bill:

Amend H. B. No. 727 by adding a new section thereto in Section V immediately following Sec. 5(a) and reading and numbered as follows:

"Sec. 36½. In any election held under authority of the Texas Liquor Control Act in any city, county or justice precinct of this State, five per cent of the qualified voters, but not necessarily more than forty of the qualified voters, of any voting precinct in said city, county or justice precinct where said election is to be held, may apply in writing to the County Judge for the appointment of one or more supervisors to serve on election day in the polling place of said voting precinct. Said application shall nominate for appointment as supervisor or supervisors only such person or persons as are resident qualified voters in the voting precinct of which the applicants seeking their appointments are resident qualified voters. Upon determination by the County Judge that the above conditions have been complied with in all respects, he shall, not less than three days preceding the date of said election, appoint in writing each supervisor so nominated in said application. Any such supervisor shall be permitted free access to all parts of the polling place so that he can hear the testing of prospective voters and can observe the conduct of the election, including the counting of the votes, the locking and sealing of the ballot boxes, their custody and safe return. He shall not be permitted to enter into any conversation with the judges or clerks regarding the election while it is progressing, except to call the attention of the judges or clerks to any irregularity or to any violation of the law that he may observe. It shall be his right to be present at the marking of the ballot of any voter requiring the aid of the judge of said election in marking his ballot, to see that said ballot is marked in accordance with the wishes of the voter and in compliance with the law. He shall have the right to see that each ballot is correctly called and tabulated. Before he shall be permitted to act as supervisor, he shall take an oath, to be administered by the presiding judge, that he will mention and note any irregularities he may observe in testing prospective voters or in counting the votes, and that he will well and impartially truly

discharge his duties as supervisor, and will report in writing to the next grand jury all violations of the law and irregularities that he may observe. The supervisors appointed by virtue of the provisions of this Act shall be compensated by the citizens upon whose application they were appointed."

The amendment was adopted.

Senator Weinert offered the following amendment to the bill:

Amend H. B. No. 727 by adding a new section thereto to be appropriately numbered and to read as follows:

"Notwithstanding any other provisions to the contrary contained in this Act, all appeals from orders of the Texas Liquor Control Board shall be tried de novo."

Question recurring on the amendment, yeas and nays were demanded.

The amendment was lost by the following vote:

Yeas—11

Aikin	Knight
Bullock	Ramsey
Crawford	Vick
Hardeman	Weinert
Hazlewood	Winfield
Kelly of Tarrant	

Nays—13

Chadick	Parrish
Cousins	Phillips
Harris	Strauss
Jones	Taylor
Lane	Tynan
Moffett	York
Morris	

Absent

Brown
Carney

Absent—Excused

Kelley of Hidalgo	Stanford
Mauritz	Stewart
Proffer	

Question—Shall the bill be passed to third reading?

Yeas and nays were demanded.

H. B. No. 727 was passed to third reading by the following vote:

Yeas—16

Bullock	Crawford
Cousins	Harris

Hazlewood	Strauss
Jones	Taylor
Kelly of Tarrant	Tynan
Parrish	Vick
Phillips	Winfield
Ramsey	York

Nays—8

Aikin	Lane
Chadick	Moffett
Hardeman	Morris
Knight	Weinert

Absent

Brown	Carney
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Absent—Excused

Kelley of Hidalgo	Stanford
Mauritz	Stewart
Proffer	

Motion to Place House Bill 727 on Third Reading

Senator Harris moved that the constitutional rule requiring bills to be read on three several days be suspended and that House Bill No. 727 be placed on its third reading and final passage.

The motion was lost by the following vote (not receiving the necessary four-fifths vote of the members present):

Yeas—16

Bullock	Ramsey
Crawford	Strauss
Harris	Taylor
Hazlewood	Tynan
Jones	Vick
Kelly of Tarrant	Weinert
Parrish	Winfield
Phillips	York

Nays—7

Aikin	Lane
Chadick	Moffett
Hardeman	Morris
Knight	

Absent

Brown	Cousins
Carney	

Absent—Excused

Kelley of Hidalgo	Stanford
Mauritz	Stewart
Proffer	

Committee Substitute Senate Bill 296 on Second Reading

On motion of Senator Aikin, and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to engrossment:

C. S. S. B. No. 296, A bill to be entitled "An Act to provide for the diagnosis, care and education of persons afflicted with cerebral palsy; providing for the establishment and maintenance of a State School for the cerebral palsied; providing for its location, control and management; and making appropriation for carrying out the purposes of the Act; and declaring an emergency."

The bill was read second time and was passed to engrossment.

Committee Substitute Senate Bill 296 on Third Reading

Senator Aikin moved that the constitutional rule requiring bills to be read on three several days be suspended and that C. S. S. B. No. 296 be placed on its third reading and final passage.

The motion prevailed by the following vote:

Yeas—22

Aikin	Knight
Brown	Lane
Bullock	Parrish
Chadick	Ramsey
Cousins	Strauss
Crawford	Taylor
Hardeman	Tynan
Harris	Vick
Hazlewood	Weinert
Jones	Winfield
Kelly of Tarrant	York

Absent

Carney	Morris
Moffett	Phillips

Absent—Excused

Kelley of Hidalgo	Stanford
Mauritz	Stewart
Proffer	

The President then laid the bill before the Senate on its third reading and final passage.

The bill was read third time and was passed by the following vote:

Yeas—22

Aikin	Knight
Brown	Lane
Bullock	Parrish
Chadick	Ramsey
Cousins	Strauss
Crawford	Taylor
Hardeman	Tynan
Harris	Vick
Hazlewood	Weinert
Jones	Winfield
Kelly of Tarrant	York

Absent

Carney	Morris
Kelley of Hidalgo	Phillips
Moffett	

Absent—Excused

Mauritz	Stanford
Proffer	Stewart

Message from the House

Hall of the House of Representatives,
Austin, Texas,
May 22, 1947.

Hon. Allan Shivers, President of the Senate.

Sir: I am directed by the House to inform the Senate that the House has passed the following bill and resolutions:

S. B. No. 350, A bill to be entitled "An Act appropriating the sum of \$1,200.00 or so much as may be necessary to satisfy, according to the terms thereof, the judgment rendered against the State of Texas in favor of A. M. H. Stark in Cause No. 8451 in the District Court of Orange County, Texas. Said judgment having become a final judgment; and declaring an emergency."

S. C. R. No. 49, Requesting the Governor to return to the Senate, Senate Bill No. 148 for further consideration.

The House has refused to adopt the Conference Committee report on Senate Bill No. 302 and requests the appointment of a new Conference Committee to consider the differences between the two Houses.

The following have been appointed on the part of the House: Sallas, Lewis, McDaniel, Heideke, and Sparks.

The House has adopted the Con-

ference Committee Report on Senate Bill No. 131 by a vote of 106 ayes, 11 noes.

S. C. R. No. 50, Suspending the Joint Rules for the purpose of considering Senate Bill No. 296 today.

Respectfully submitted,
CLARENCE JONES,
Chief Clerk, House of Representatives.

Report of Conference Committee on Senate Bill 131

Senator Hazlewood submitted the following report:

Austin, Texas,
May 22, 1947.

Hon. Allan Shivers, President of the Senate.

Hon. W. O. Reed, Speaker of the House of Representatives.

Sirs: We, your Conference Committee on Senate Bill No. 131 appointed by the President of the Senate and the Speaker of the House of Representatives respectively to adjust the differences between the two Houses, beg leave to report that we have adjusted the differences between the Senate and House and recommend the passage of the bill in the form attached hereto.

Respectfully submitted,
HAZLEWOOD
LANE
YORK
MORRIS
AIKIN

On the Part of the Senate.

HEFLIN
WILLIS
WALLACE
AYNESWORTH
RIDGEWAY

On the Part of the House.

S. B. No. 131 By Hazlewood

A BILL

To Be Entitled

An Act amending Sections 1 to 25 inclusive of Acts 1935, 44th Legislature, page 304, Chapter 116, the same being otherwise designated as Article 734b, Vernon's Annotated Penal Code, as amended; and repealing all parts and Sections of said Act and the amendments thereto not amended herein; making it unlawful for any person to engage in the practice of a hairdresser or cosmetologist or to operate a cosmetological school without having first obtained a certificate of reg-

istration; making it unlawful for the owner of any hairdressing or cosmetological shop to employ certain persons to work therein who have not obtained licenses; making it unlawful for any person, firm or corporation to operate a beauty shop unless under the supervision of a licensed operator; making it unlawful for any person to operate a beauty school unless under the supervision of a licensed instructor; defining terms and providing definitions of a hairdresser, cosmetologist, school, manicurist, operator, instructor, shop, student, and the Board; defining the term Board of Hairdressers and Cosmetologists; providing for a State Board of Hairdressers and Cosmetologists, and the number of members and the manner of appointment, and the qualifications for the members of such Board; providing for the terms of office of the Board of Hairdressers and Cosmetologists, and the filling of vacancies; defining a quorum of the Board and the election of officers by the Board members; providing for the employment of an Executive Secretary by the Board, and requirement of a bond for the Executive Secretary; designating the custodian of any revenues under the provisions of this Act; providing for salaries and expenses for Board members and Executive Secretary; providing that the Board shall keep a record of proceedings, a registry of applicants for certificates, and a record of the granting and refusal of certificates; providing for examinations and the manner of the issuance of certificates and licenses; requiring health certificates and penalties for false certificates; the display of certificates and licenses; providing for the refusal to grant certificates on failure to pass examinations and to those guilty of fraud in obtaining certificates, as well as the revocation and suspension of certificates of registration and licenses under certain conditions; providing for the places, dates and times for the meeting of the Board, and providing for the taking of examinations by applicants and qualifications of applicants to be licensed under this Act; providing for the issuance and renewal of licenses issued under this Act, and providing for the extent, nature and subjects for examination to be given applicants for licenses; exempting certain persons from examinations; providing for and prescribing sanitary rules and regula-

tions, and providing for health certificates of applicants; providing that the Board, with the approval of the State Board of Health, shall prescribe sanitary rules to prevent the spread of infectious and contagious diseases; providing for the type and character of buildings to be used as beauty shops or schools; providing for clerical help and inspectors and the fixing of salaries and the expenses for inspectors and clerical help; providing for qualifications of the inspectors; providing for the inspection of beauty shops, schools and parlors; providing for the form of application made to the Board and the nature of information to be given in applications for schools of beauty culture; providing for the issuance of licenses to schools under certain conditions, and providing for a minimum space for such schools, and the type and nature of the construction of buildings, the number of rooms, the minimum number of students in classes, the minimum equipment and apparatus, and other qualifications of applicants for schools; providing the number of instructors for schools of beauty culture, rules and regulations for the operation of such schools, minimum requirements and terms for such schools, the number of hours of instruction to complete courses, school terms, methods, hours, and character of instruction, and credits to be given; providing for minimum education and health requirements of students; providing qualifications for persons receiving teachers licenses, examinations to be given by the Board for teachers; prohibiting charges for work by students except under certain conditions; providing the nature and type of buildings in which beauty schools and shops are to be conducted; providing for fees accompanying applications for licenses; providing for the issuance, term and renewal of licenses; providing for application and examination fees, and fees for operators, instructors, manicurists, schools, and shop licenses and renewal fees thereof; providing the period for which licenses are issued and for reinstatement and fees for expired licenses; prohibiting the establishment and operation of itinerant beauty shops except under certain conditions; providing for hearings before the Board upon the refusal to issue or renew or the suspension of licenses, the manner and procedure of the hearing, the or-

der of trial, the attendance of witnesses, mileage fees, and the representation of the Board by attorneys; providing for the suspension, revocation and refusal to renew licenses by the Board, and the procedure to be followed, including giving notice of public hearing, the issuance of orders and appeals to court from such orders; enumerating and naming the causes and grounds for the suspension and revocation or the refusal to renew or issue licenses; excepting certain persons from the provisions of this Act and under certain types and cases of emergency; providing for the appropriation, use and disposition of all money collected under the provisions of this Act; providing that nothing herein shall impair or affect present funds; and providing for refunds; providing penalties and punishment therefor; providing a repealing and a savings clause; and declaring an emergency."

Be It Enacted by the Legislature of the State of Texas:

Section 1. That Acts 1935, 44th Legislature, Regular Session, page 304, Chapter 116, Sections 1 to 25 inclusive; as amended by Acts 1935, 44th Legislature, Second Called Session, page 1846, Chapter 469; as amended by Acts 1943, 48th Legislature, Regular Session, page 639, Chapter 365, the same being otherwise designated as Article 734b, Sections 1 to 25, inclusive, of Vernon's Annotated Penal Code, be and the same is hereby amended in its entirety so as hereafter to read as follows:

"Section 1. That it shall be unlawful for any person to perform any of the operations of, or engage in the practice or occupation of, a hairdresser or cosmetologist or to conduct a hairdressing or cosmetological establishment or schools as defined in this Act unless such person shall have first obtained a certificate of registration, and/or license as provided under this Act; and it shall be unlawful for the owner, owners and/or manager of any hairdressing or cosmetological shop to employ any person as a hairdresser, cosmetologist, or manicurist who has not first obtained a certificate of registration and/or license as provided under this Act.

"Section 2. (a). It shall be unlawful for any person, firm or corporation to operate a beauty shop within

this state, unless such shop is at all times under the direct supervision of an operator licensed under this Act.

"(b) It shall be unlawful for any person, firm or corporation to operate a beauty school within this state, unless such school is at all times under the direct supervision of an instructor licensed under this Act.

"Section 3. (a) Any person who for a fee engages in or performs any one or any combination of the following practices, to-wit: arranging, dressing, curling, waving, cleaning, singeing, bleaching, or coloring of the hair, shall be construed to be practicing the occupation of a hairdresser.

"(b) Any person who with hands or mechanical or electrical apparatus or appliances, or by use of cosmetological preparations, antiseptics, tonics, lotions, or creams, engages in or performs any one or combination of the following practices, to-wit: cleaning, beautifying, or any work of the scalp, face, neck, arms, bust, or upper part of the body, or manicuring the nails of any person, shall be construed to be practicing the occupation of a cosmetologist.

"(c). Any person, firm, institution or corporation, who shall hold himself or itself out as a school to teach and train, or any person, firm, institution or corporation who shall teach and train any other person or persons in the art, business or trade of hairdressing, cosmetology, or manicuring, as provided in this Act, is hereby declared to be a beauty culture school, and is subject to the provisions and restrictions contained in this Act.

"(d) Any person who engages in, or performs, only the practice of manicuring the nails of any person, shall be known as a manicurist.

"(e) An operator is a person who engages in, or performs, any of the practices of hairdressing and/or cosmetology as defined in this Act.

"(f) An instructor is any person engaged in teaching any of the practices of beauty culture as defined in this Act.

"(g) A hairdressing or cosmetological shop is that part of any building where or whereupon hairdressing or cosmetology as defined in this Act is performed or practiced. For the purposes of this Act, a hairdressing or cosmetological shop shall be synonymous with beauty parlor,

beauty shop, beauty salon or studio of beauty.

"(h) Any person who is being instructed in a licensed and/or registered school of beauty culture, as defined in this Act, is a student.

"(i) All references in this Act to the Board are construed to mean the Texas State Board of Hairdressers and Cosmetologists.

"Section 4. (a) The State Board of Hairdressers and Cosmetologists shall be composed of three (3) members; such members shall be appointed by the Governor and confirmed by the Senate; such members shall be at least twenty-five (25) years of age and shall have had at least five (5) years practical experience in the majority of the practices of hairdressing and cosmetology in Texas as a hairdresser or cosmetologist and/or instructor under a license issued by the Board, and shall be a citizen of this state. No member of the Board shall be a member of, or affiliated with, or shall have any financial interest in any such school of hairdressing or cosmetology while in office, nor shall any two (2) members of said Board be graduates of the same school. If it be proved to the Governor of Texas by reliable and satisfactory evidence that any member of such Board is affiliated with or has any financial interest in any such school, then the Governor shall declare the office vacant and shall immediately appoint a new member to fill the unexpired term.

"(b) Each member of said Board shall serve a term of six (6) years, or until his or her successor is appointed and qualified. The present members of the Board shall serve until their respective terms expire and one member shall be appointed biennially thereafter. The members of said Board shall take the oath provided by law for public officials. Vacancies shall be filled by the Governor for the unexpired portion of the term.

"(c) The majority members of the Board shall constitute a quorum for the transaction of business. The Board shall prescribe the rules for its government and have a seal with which to authenticate its acts.

"Section 5. (a) The members of the Board shall annually elect from its members a President, a Vice-President and a Secretary.

"(b) The Board shall employ an

Executive Secretary who shall not be a member of the Board. The compensation of such Secretary shall be fixed by the Board. His or her necessary expenses actually incurred in the discharge of the duties of the office shall be paid by direction of the Board. Such Executive Secretary before entering upon the duties of the office shall give a bond signed by some surety company authorized to do business in Texas, in the sum of Ten Thousand (\$10,000.00) Dollars, payable to the State of Texas, conditioned for the faithful performance of his or her duties, such bond to be filed with the Secretary of State.

"Section 6. The State Treasurer of the State of Texas is hereby designated as custodian of all revenues derived under the provisions of this Act, and all such funds shall be credited by the State Treasurer to the 'State Board of Cosmetologists Fund.'

"Section 7. The members of the Board shall each receive a salary of Three Thousand Six Hundred (\$3,600.00) Dollars per year, payable in equal monthly payments, together with actual expenses incurred in the performance of their official duties, providing such expenses shall be allowed if and when audited, approved and allowed by the State Comptroller. Such salary of the Board members and the Executive Secretary, as well as all other expenses incidental to the discharge of their duties, shall be allowed, including reasonable expenses in attending schools for the purpose of taking postgraduate courses in beauty culture only and attending conventions of beauty culturists, both state and national; providing in no event shall such expense for any one Board member exceed the sum of One Hundred (\$100.00) Dollars for any one convention or postgraduate course attended within the state nor more than Two Hundred (\$200.00) Dollars for any one convention or postgraduate course attended out of the state; provided that no more than one member of the Board shall be absent from his regular duties as a Board member at any time for the purpose of taking such postgraduate work only and that no Board member shall attend (or take) more than one (1) such postgraduate course during any one (1) calendar year extending over not more than a two (2) weeks period. All salaries and expenses shall be paid out of the fund in the

State Treasury to the credit of the Texas Board of Cosmetology on requisition signed by the President and Secretary of the Board and a warrant of the State Comptroller.

"Section 8. The said Board shall keep a record of its proceedings. It shall keep a register of applicants for certificates showing the name of the applicant, the name and location of his place of occupation or business, and whether the applicant was granted or refused a certificate. The books and records of the Board shall be prima facie evidence of matters therein contained and shall constitute public records.

"Section 9. (a) The Board shall hold regular meetings for the examination of applicants in the capital of the state on the first Tuesday in February, May, August and November of each year. All applicants for examination, before filing such application with the Board, must furnish the Board a birth certificate showing applicant to be past sixteen (16) years of age; also must have completed the hours and months of instruction required by this Act in a school licensed and/or registered and duly recognized by the Board, or hold either a current or expired license of this state or of a state having requirements as provided in this Act. Such examination shall be conducted under the rules provided by said Board and shall include practical demonstration and written and/or oral tests in reference to the practices for which a license is applied for, and such related subjects as the Board may determine necessary for the proper and efficient performance of such practices; and such examination shall include sanitation and hygiene, and the use of cosmetics, and application of electrical and mechanical equipment and appliances, anatomy, and dermatology, and such other kindred subjects as may be necessary and prescribed by the Board to determine one's fitness and qualifications as a hairdresser or cosmetologist.

"(b) All applications for examination for operators, instructors, or manicurists license and renewal of any such license shall be accompanied by a health certificate issued and personally signed by a licensed doctor of medicine showing the applicant to be free from any contagious or infectious disease as determined by a gen-

eral examination and by a Wassermann blood test, and shall have complied with all requirements of this Act. The Board shall not issue a license or certificate of renewal of license to any operator, instructor, demonstrator, or manicurist whose health certificate shows him or her to be infected with any contagious or communicable disease. Any such doctor who shall issue or sign any such health certificate without having actually made a physical examination for the purpose of ascertaining if the applicant shall have any contagious or communicable disease, or if any such doctor shall issue or sign any such health certificate without having actually made a Wassermann blood test, he shall be guilty of a misdemeanor, and on conviction therefor, shall be fined not less than Fifty (\$50.00) Dollars nor more than Two Hundred (\$200.00) Dollars.

"(c) If an applicant for examination passes such examination to the satisfaction of the Board and in accordance with the rules promulgated by said Board, the Board shall issue a certificate to that effect, signed by the President and Secretary and attested with its seal. Such certificate shall be evidence that the person to whom it is issued is entitled to follow the practices, occupation, or occupations stipulated therein, as prescribed in this Act. Such certificates shall be conspicuously displayed in his or her place of business or employment, provided however, that where the applicant is a graduate of some school of beauty culture in the State of Texas duly licensed and recognized by the Board, then such applicant, by complying with, and after passing an examination as provided for in subsections 9 (a), (b) and (d) shall be given a certificate.

"(d) The Board may refuse to grant a certificate to any persons who shall fail to make a grade of seventy-five (75) in all subjects upon which they are examined, or to any person guilty of fraud in passing the examination and obtaining a certificate of authority to operate under the provisions of this Act at any time.

"(e) Any person within the provisions of this Act having, at the effective date thereof, a valid certificate or license from the State Board of Hairdressers and Cosmetologists shall be exempt from the examinations required by this Section of this

Act, but such person shall be required to pay all the fees and have such certificate or license renewed, as provided in this Act.

"Section 10. (a) The said Board shall, with the approval of the State Board of Health and in compliance with the sanitary provisions contained in Articles 728-734 of the Penal Code of the State of Texas, prescribe such sanitary rules as it may determine necessary to be employed to prevent the spread of infectious and contagious diseases. Any person who fails to comply with such sanitary rules shall be subject to the penalties provided for in this Act. It shall be unlawful for a person, firm or corporation to operate a beauty shop or a beauty school as defined in this Act unless the same is a bona fide establishment with a permanent and definite location completely and permanently separated by solid walls with no openings from rooms used wholly or in part for residential or sleeping purposes. Provided a person may have a shop in his or her home where the requirements, provisions, and sanitary rules of this Act are complied with.

"(b) The said Board shall have the authority to employ and fix the salary of such clerical help, and inspectors for the purpose of enforcing compliance with this law, as may be necessary. Provided, however, that all the expense of such help and inspectors shall be paid out of the funds derived from the fees provided for by this Act and not otherwise. And no salaries, compensation, and/or expenses provided by any part of this Act shall, in any event, exceed the salaries, compensation, and/or expenses allowed for like service in the Comptroller's Department by the general appropriation bill.

"(c) No person shall be employed by the Board as an inspector unless such person is at least twenty-five (25) years of age, and has had at least five (5) years actual experience as a cosmetologist and a hairdresser and/or as an instructor under a license issued by the Texas State Board, and shall be a citizen of this state.

"(d) The said Board, or any duly appointed agent, shall have authority to inspect any beauty shop, beauty parlor, or school, at any time during business or school hours.

"Section 11. (a) Any person, firm or corporation applying to the Board for an original certificate of registration and/or license as a school of beauty culture shall make such application in the form prescribed by the Board, giving the data and information required by the Board. The Board shall, in such application, require such data, information and facts as it deems necessary to determine such applicant's compliance with this Act and fitness to conduct and maintain such school. No applicant for an original school license shall hereafter be granted an original certificate of registration and/or license unless it shall have a location approved by the Board, having therein a minimum space of not less than three thousand five hundred (3,500) square feet of floor space in a modern fireproof building of a permanent type of construction. Such space shall be divided into three separate departments, viz: a theory class room, a room for practical work for seniors, and a room for practical work for juniors, and shall have not less than two (2) modern sanitary toilets in separate rooms, and shall possess and have installed the minimum equipment and apparatus required and approved by the Board, sufficient to train and properly and fully instruct a minimum of fifty (50) students at one time in all subjects of its curriculum; and such schools shall thereafter maintain such school premises, minimum equipment and apparatus; and such applicants shall furnish evidence to the Board of their financial ability to continue the possession of such minimum requirements and to operate such school. Should any such applicant after the passage of this Act not meet such minimum requirements and/or fail to furnish satisfactory evidence to the Board of his financial ability to continue the possession and maintenance thereof and to operate such school, the Board shall not issue a certificate of registration and/or license to such applicant; however, the requirements as to floor space and number of licensed instructors shall not apply to Public Vocational Schools.

"(b) No school of beauty culture shall be granted a license and/or registration unless it shall maintain a sanitary establishment and employ and maintain on its staff not less than

two (2) instructors who have been licensed as instructors by the Texas State Board, and shall keep a daily record of attendance of students, and shall maintain a regular class and regular instruction hours, establish grades and hold examinations before issuing diplomas, and shall require a school term of not less than six (6) months, and not less than one thousand (1,000) hours of instruction for a complete course of the practices of hairdressing and cosmetology, and shall require a school term of not less than six (6) weeks, and not less than one hundred fifty (150) hours instruction for a complete course in manicuring; and no student shall receive credit for more than eight (8) hours of instruction in any one (1) day, or for more than six (6) days in any one (1) calendar week.

"(c) No school shall enroll any person as a student who has not acquired a seventh grade education or its equivalent; nor any person who is afflicted with any communicable disease; provided however, all applicants for examination by the Board for license to practice within the State of Texas must be able to read and write the English language.

"(d) All applicants for a teacher's license shall have had at least three (3) years experience as an operator under a license from the Texas State Board, shall have a current operator's license at the time of applying, shall have a high school education or its equivalent, and shall be required to pass an examination conducted by the Board to determine their fitness as teachers. A licensed instructor from another state is eligible for Texas instructor's examination after first having successfully passed the examination herein provided for an instructor, and upon presentation of his or her instructor's license from his or her respective state.

"Section 12. (a) No school shall be permitted to charge for work done by any student who has not completed fifty (50%) per cent of the required number of hours, as provided for in Section 11, Subsection (b); and no school shall be permitted to charge for work done by a licensed instructor.

"(b) No school and shop shall be conducted in the same quarters or upon the same premises unless they are separated by walls of permanent construction with no openings between them; and no school shall employ any

licensed operator to perform the services of a hairdresser, cosmetologist, or manicurist as defined in this Act.

"Section 13. Each applicant, to conduct a beauty parlor as defined in this Act, shall accompany such application with a cashier's check or Post Office money order for Ten (\$10.00) Dollars, and the certificate issued such applicant shall entitle the person to practice the occupation or occupations of hairdressing or cosmetology, provided he or she can meet the requirements for such practice as stipulated in this Act; and each application for examination as an operator to work in any beauty parlor shall be accompanied by a cashier's check or Post Office money order for Ten (\$10.00) Dollars; and each application for examination to work as a manicurist shall be accompanied by a cashier's check or Post Office money order of Ten (\$10.00) Dollars; and each application for examination as an instructor shall be accompanied by a cashier's check or Post Office money order of Ten (\$10.00) Dollars.

"Section 14. (a) No certificate or license shall be issued for a longer period than one (1) year, and shall expire on the thirty-first (31st) day of August of the year for which it is issued unless renewed prior to that date. A licensed instructor, operator or manicurist, whose license has expired, may, within thirty (30) days thereafter, and not later, have his or her certificate or license restored by making proper application to the Board, supported by his or her personal affidavit stating the reasons, which in the opinion of the Board, will excuse the applicant for having failed to renew his or her certificate within the time required by this Act, a reinstatement fee of Five (\$5.00) Dollars being required thereafter. Provided, however, where an instructor, operator, or manicurist retires from the active practice as defined in this Act for not more than five (5) years, he or she may have his or her license reinstated without examination upon proper application to the Board accompanied by each year's annual renewal fee; and provided further that such person shall furnish the Board with health requirements as provided for under other provisions of this Act; and provided further, however, that the Board may refuse to issue or renew such license for any of the causes set forth under Section 17 of this Act.

"(b) The annual license fee for conducting a beauty parlor shall be the sum of Five (\$5.00) Dollars; and the annual license for operators to work at the trade or practice of beauty culture shall be the sum of Three (\$3.00) Dollars; and the annual registration fee for a manicurist shall be Two and 50/100 (\$2.50) Dollars; and the annual registration fee for an instructor shall be Ten (\$10.00) Dollars; and the annual registration fee to conduct a beauty school shall be One Hundred (\$100.00) Dollars.

"(c) The establishment of itinerant shops is hereby expressly prohibited, and it shall be unlawful for any person, firm or corporation to operate a beauty shop as defined in this Act, unless the same is a bona fide establishment with a permanent and definite location. Any license granted under the terms of this Act shall permit the licensee to practice in only such bona fide established beauty shop; provided, however, that nothing in this Act shall prohibit the removal or change of location of a beauty shop, provided such move or change is made in good faith with the intention of definitely and permanently locating elsewhere. Provided, further, that nothing in this Act shall prohibit the establishment of chain beauty shops which have a definite and permanent location and have complied with all the other terms of this law.

"Section 15. The Board shall neither refuse to renew, nor shall it suspend nor revoke any certificate of registration, for any of the causes enumerated in this Act, except for failure of applicant to furnish the Board with a health certificate and Wassermann test, as required by Section 9 (b) of this Act, showing such applicant and/or licensee to be free from contagious or infectious diseases as determined by a general examination and such test, unless the person accused has been convicted of violation of the provisions of this Act in a court of competent jurisdiction; however, upon any such conviction, the Board may suspend or revoke any such certificate of license or registration after giving the person so convicted at least twenty (20) days written notice of time and place of hearing before the Board for such purpose. Upon the hearing of such proceeding the accused shall have the right to be represented by counsel. The

Board shall have the power to summon witnesses and to require the production of books and records, and to prepare for the purpose of such hearing, and to administer oaths. Any District Court or any Judge of such court in this state, in term time or in vacation, upon application by the accused or of the Board or a member thereof, may, by order duly entered, require the attendance of witnesses and the production of relevant books and papers before the Board, in any hearing relating to the refusal, suspension, renewal, or revocation, or issuing of a certificate of registration, and may order the sheriff or any other peace officers of the county wherein said order is made and entered to serve such process as may be issued in order to compel the attendance of witnesses before said Board, for which services so rendered by such officer or officers the fees and mileage of the sheriff and of witnesses shall be the same as allowed in criminal cases and shall be paid from the fund of the Board as herein provided for, as other expenses of the Board are paid. However, the officers shall make claim for fees as in criminal cases and be paid upon warrant drawn by the Comptroller as in criminal cases. If the accused shall prevail at such hearing, the Board shall grant him the proper relief without delay. Any investigation, inquiry, or hearing thus authorized may be entertained or held by or before a majority of the members of the Board and the finding or order of such members, when approved and confirmed by the Board, shall be deemed a finding or order of the Board, and at such hearing the Board may be represented by the District Attorney or County Attorney, or the Attorney General of Texas.

"Section 16. If the Board suspends, revokes, or refuses to issue or renew such certificate of registration or license at said hearing, then such person may file suit to prevent same or to appeal from said order and shall be entitled to a trial de novo in the District Court of the county in which the person, whose certificate of registration or license resides. Any and all suits filed hereunder shall be filed within twenty (20) days from the date of the order of said Board.

"Section 17. The Board may either refuse to issue or to renew, or may suspend or revoke, any certificate of registration or license, for failure to furnish the Board with a health cer-

tificate and Wassermann test, as required by Section 9 (b) of this Act, showing such applicant and/or licensee to be free from contagious or infectious disease as determined by a general examination and such test, or for any one or combination of the following causes:

"(a) Conviction of a felony shown by a certified copy of the record of the trial wherein the conviction was held;

"(b) Gross malpractice or gross incompetency, after having been convicted thereof in a court of competent jurisdiction;

"(c) Continued practice by a person knowingly having an infectious or contagious or communicable disease, when such is shown by medical certificate or Wassermann test;

"(d) Advertising by means of knowingly making false or deceptive statements, after having been convicted thereof in a court of competent jurisdiction;

"(e) Advertising, practicing, or attempting to practice under another's trade name or another's name;

"(f) Habitual drunkenness or habitual addiction to the use of morphine, cocaine, or other habit-forming drugs;

"(g) Immoral conduct; and

"(h) Violation of any of the regulations described in this Act after conviction thereof by a court of competent jurisdiction.

"Section 18. Nothing in this Act shall prohibit service in case of emergency, or domestic administration, nor service by persons authorized under the laws of this state to practice medicine, surgery, dentistry, chiropody osteopathy; nor registered nurses; nor service by any licensed barber; engaged in the usual and ordinary duties of their vocations; and nothing herein contained shall be construed to mean that a barber, working in a beauty shop in the capacity of a hair cutter only, shall be subject to the provisions of this Act. Provided that any person who works in a beauty shop in the capacity of a hair cutter shall be a licensed barber and any person who works in a barber shop in the capacity of a manicurist as herein defined shall be licensed as a manicurist. Provided, further, that nothing in this Act shall prohibit a person licensed under this Act from performing duties as prescribed by

this Act in the home of a customer in cases of emergency when sent by a shop owner and shall in no manner apply to, limit or prohibit the arranging, dressing, curling, waving, cleansing, singeing, bleaching, coloring of, or any work upon, the hair of a person when performed in a private home without charge or fee.

"Section 18a. Nothing in this Act shall be construed so as to prevent bona fide salesmen from demonstrating any preparations herein referred to.

"Section 19. Disposition of Funds.

(a) Any and all sums of money paid into the State Treasury and credited to the State Board of Hairdressers and Cosmetology Fund shall be, and the same are hereby, appropriated for the fiscal years ending August 31, 1936, and for August 31, 1937, and each succeeding year thereafter to be expended under the direction of the Legislature as may be provided by law.

"(b) On August 31st of each year the Board shall file with the State Comptroller its annual report in such form as may be required by the Comptroller.

"(c) That ten (10%) per cent of all moneys received by the Board shall be paid into the General Revenue Fund of the State of Texas at the end of each fiscal year.

"(d) Nothing herein shall affect, impair, modify, amend or change any funds credited to the State Board of Hairdressers and Cosmetology Fund at the effective date of this Act. All funds received by the said Board during the remainder of the biennium ending August 31, 1947, shall likewise be applied as provided by law prior to the effective date hereof, and especially as provided in the Departmental Appropriation Bill, Acts 1945, 49th Legislature, Chapter 378.

"(e) It is hereby specifically provided that if for any reason an applicant pays money to the Board for application fees for license or any other fees provided for under this Article, and when such applicant fails to take the examination as required by this law, or for any other reason the license fails to issue as required by this law, then the Board of Hairdressers and Cosmetologists is hereby authorized and directed to refund the amount of money paid by such applicant from the moneys in the Hairdressers-Cosmetologists Fund.

"Section 20. That each of the following offenses shall constitute a misdemeanor punishable on conviction in a court of competent jurisdiction by a fine not less than Twenty-five (\$25.00) Dollars, nor more than One Hundred (\$100.00) Dollars:

"(a) The violation of any of the provisions of this Act;

"(b) Obtaining or attempting to obtain a certificate of registration or license by fraudulent representation;

"(c) The willful failure to display a certificate of registration or license as required by this Act.

"Section 21. That the willful making of any false statement as to material matter in any oath or affidavit which is required by the provisions of this Act to be made is false swearing and punishable as such under the laws of this state."

Sec. 2. All laws and parts of laws in conflict herewith are hereby repealed. It is the intention of this Act to amend in its entirety Acts 1935, 44th Legislature, Regular Session, page 304, Chapter 116, Sections 1 to 25 inclusive; as amended by Acts 1933, 44th Legislature, Second Called Session, page 1846, Chapter 469; as amended by Acts 1943, 48th Legislature, Regular Session, page 639, Chapter 365, the same being otherwise designated as Article 734b, Sections 1 to 25 inclusive of Vernon's Annotated Penal Code; and all Sections and parts of said Acts 1935, 44th Legislature, page 304, Chapter 116, and all amendments thereto not amended by this Act are hereby repealed.

Sec. 3. Should any section, paragraph, sentence, clause, phrase or word contained in this Act be held invalid, the same shall not affect any other section, paragraph, sentence, clause, phrase or word hereof, and any other section, paragraph, sentence, clause, phrase or word not affected by such holding shall remain in full force and effect.

Sec. 4. The fact that the law governing the operation of beauty shops and beauty schools and the performing of beauty work at the present time is inadequate and unenforceable creates an emergency and an imperative public necessity that the Constitutional Rule requiring that bills be read on three several days be suspended, and said Rule is hereby sus-

pended, and that this Act shall take effect and be in force from and after its passage, and it is so enacted.

The report was read and was adopted.

(Pending consideration of the report, Senator Parrish occupied the Chair temporarily.)

(President in the Chair.)

Conference Committee on Senate Bill 302

Senator Vick called from the President's table for consideration at this time, the request of the House for a new conference committee to adjust the differences between the two Houses on Senate Bill No. 302 and moved that the request be granted.

The motion to grant the request prevailed.

Accordingly, the President announced the appointment of the following conferees on the bill on the part of the Senate: Senators Vick, Tynan, Brown, Hazlewood, and Lane.

Motion to Place House Bill 543 on Second Reading

Senator Bullock moved to suspend the regular order of business to take up House Bill No. 543 for consideration at this time.

The motion was lost by the following vote (not receiving the necessary two-thirds vote):

Yeas—13

Bullock	Parrish
Cousins	Phillips
Crawford	Ramsey
Hazlewood	Vick
Jones	Weinert
Knight	York
Moffett	

Nays—9

Aikin	Strauss
Brown	Taylor
Hardeman	Tynan
Lane	Winfield
Morris	

Absent

Carney	Harris
Chadick	Kelly of Tarrant

Absent—Excused

Kelley of Hidalgo Stanford
Mauritz Stewart
Proffer

Report of Conference Committee on
House Bill 168

Senator Harris submitted the following report:

Austin, Texas,
May 22, 1947.

Hon. Allan Shivers, President of the Senate.

Hon. W. O. Reed, Speaker of the House of Representatives.

Sirs: We, the members of your Conference Committee, appointed to adjust the differences between the Senate and the House of Representatives on House Bill No. 168, have met and had same under consideration and recommend that House Bill No 168 be passed in the form attached hereto.

Respectfully submitted,

PARRISH
HARRIS
STRAUSS
WEINERT
MOFFETT

On the Part of the Senate.

PARKHOUSE
KIRKPATRICK
JAMESON
JOHNSON
WALKER

On the Part of the House.

H. B. No. 168 By: Parkhouse et al.

A BILL

To Be Entitled

An Act to carry into effect Section 62a of Article 16 of the Constitution; to provide a Retirement System for aged and incapacitated State employees; providing a saving clause; and declaring an emergency.

Be it enacted by the Legislature of the State of Texas:

Section 1. Definitions.

The following words and phrases as used in this Act, unless a different meaning is plainly required by the context, shall have the following meanings:

A. "Retirement System" shall mean the Employees Retirement System of Texas as defined in Section 2 of this Act.

B. "Department" shall mean any department, commission, institution, or agency of the State Government.

C. "Employee" shall mean any regularly appointed officer or employee in a department of the State who is employed on a basis or in a position normally requiring not less than nine hundred (900) hours per year, but shall not include members of the State Legislature or any incumbent of an office normally filled by vote of the people; nor persons on piecework basis; nor operators of equipment or drivers of teams whose wages are included in rental rate paid the owners of said equipment or team; nor any person who is covered by the Teacher Retirement System of the State of Texas or any retirement system supported with State funds other than the Texas Employees Retirement System.

D. "Employer" shall mean the State of Texas.

E. "Member" shall mean any employee included in the membership of the System as provided in Section 3 of this Act.

F. "Beneficiary" shall mean any person in receipt of a pension, an annuity, a retirement allowance, or other benefits as provided by this Act.

G. "Service" shall mean service as an employee, as described in Subsection C of this Section.

H. "State Board of Trustees" shall mean the Board, provided for in Section 6 of this Act, to administer the Retirement System.

I. "Prior Service" shall mean service rendered prior to the date of establishment of the Retirement System, for which credit is allowable under Section 4 of this Act.

J. "Membership Service" shall mean service as an officer or employee rendered while a member of the Retirement System.

K. "Creditable Service" shall mean "Prior Service" plus "Membership Service" for which credit is allowable, as provided in Section 4 of this Act.

L. "Regular Interest" shall mean interest at the rate of three and one-half per cent (3½%) per annum, compounded annually.

M. "Current Interest" shall mean interest at a rate per centum per annum ascertained each year by dividing (1) the amount in the Interest Fund on August 31st of such year before the transfer of interest to other funds, less an amount equal to three and one-half per cent (3½%) of the

sum of the mean amount in the Membership Annuity Reserve Fund during such year, and the mean amount in the Prior Service Annuity Reserve Fund during such year, and less an amount as may be set annually by the Board of Trustees to cover additional cost, if any, of administering the System by (2) an amount equal to the amount in the State Membership Accumulation Fund at the beginning of such year plus the amount in the Permanent Retirement Fund at the beginning of such year and plus the sum of the accumulated contributions in the Employees Saving Fund at the beginning of such year to the credit of all members included in the membership of the System on August 31st of such year, before any transfers for Service Retirement effective August 31st of such year are made, it being provided that the above division shall be carried to only three (3) decimal places and shall never be taken as greater than three and one-half per cent (3½%).

N. "Accumulated Contributions" shall mean the sum of all the amounts deducted from the compensation of a member, and credited to his individual account in the Employees Saving Fund, together with all current interest credits thereto, as provided in Section 8 of this Act.

O. "Earnable Compensation" shall mean the full rate of the compensation that would be payable to an employee if he worked the full normal working time. In cases where compensation includes maintenance, the State Board of Trustees shall fix the value of that part of the compensation not paid in money.

P. "Average Prior Service Compensation" shall mean the average annual compensation of an employee during the ten (10) years immediately preceding the enactment of this law, or if he had less than ten (10) years of such service, then his average compensation shall be computed for his total years of such prior service, but in computing the average, no salary for any one year shall be more than Three Thousand, Six Hundred Dollars (\$3,600).

Q. "Membership Annuity" shall mean payments for life actuarially determined and derived from reserve funds contributed by a member and an equal amount of reserve funds contributed by the State. All membership annuities shall be payable in equal monthly installments.

R. "Prior Service Annuity" shall mean payment each year for life of one and one-quarter per cent (1¼%) of a member's average prior service compensation, as defined in this Act, multiplied by the number of years of Texas service in his prior service certificate; provided that the maximum number of years of prior service to be allowed shall be thirty-six (36) years, and in computing his average prior service compensation, the maximum prior service salary in any one year shall be Three Thousand, Six Hundred Dollars (\$3,600). All prior service annuities shall be payable in equal monthly installments.

S. "Service Retirement Allowance" shall mean a membership annuity and a prior service annuity, or any optional benefits payable in lieu thereof.

T. "Disability Retirement Allowance" shall mean a membership annuity and a prior service annuity.

U. "Retirement" shall mean withdrawal from service with a retirement allowance granted under the provisions of this Act.

V. "Service Retirement" shall mean the retirement of a member from service with a service retirement allowance at any time after ten (10) years of creditable service in Texas and after attaining sixty (60) years of age, or after thirty (30) years service in Texas regardless of age.

W. "Disability Retirement" shall mean withdrawal from service on a disability allowance any time after ten (10) years of creditable service in Texas and before attaining sixty (60) years of age.

X. "Membership Annuity Reserve" shall mean the present value computed upon the basis of such annuity or mortality tables as shall be adopted by the State Board of Trustees with regular interest, of all payments to be made on account of membership annuity or benefit in lieu thereof, granted to a member under the provisions of this Act.

Y. "Actuarial Equivalent" shall mean a benefit of equal value when computed upon a basis of such mortality tables as shall be adopted by the State Board of Trustees and regular interest.

Z. "Fiscal Year" shall mean the year beginning September 1st and ending August 31st.

Sec. II. Name and Date of Establishment.

A Retirement System is hereby established and placed under the man-

agement of the State Board of Trustees as hereinafter created for the purpose of providing retirement allowances and other benefits under the provisions of this Act for appointed officers and employees as defined in this Act. The Retirement System, so created, shall be established as of September 1, 1947.

It shall have the power and privileges of a corporation and shall be known as the "Employees Retirement System of Texas," and by such name all of its business shall be transacted, all of its funds invested, and all of its cash and securities and other property held.

Sec. III. Membership.

The membership of said Retirement System shall be composed as follows:

A. All persons who are employees on the date as of which the Retirement System is established shall become members as of that date as a condition of their employment unless within a period of ninety (90) days after September 1, 1947, any such employees shall file with the State Board of Trustees on a form prescribed by such Board, a notice of his election not to be covered in the membership of the System and a duly executed waiver of all present and prospective benefits which would otherwise inure to him on account of his participation in the Retirement System. The following persons shall, however, not be eligible for participation in the Retirement System:

1. Members of the State Legislature or any incumbent of an office normally filled by a vote of the people, nor any person who is covered by the Teachers Retirement System or any retirement system supported with State funds other than the Texas Employees Retirement System.

2. Persons employed on a piece-work basis or operators of equipment or drivers of teams whose wages are included in the rental rate paid the owners of said equipment or team.

3. Employees who are employed less than nine hundred (900) hours per year.

B. Any person who becomes an employee on or after the date of establishment of the System shall, upon the completion of nine (9) months of continuous service uninterrupted by a break of more than one month, become a member of the System as a condition of employment, provided said person is less than sixty (60) years of age at the time of comple-

tion of said nine (9) months of service. Contribution by such employee under this Act shall begin with the first pay roll period after said nine (9) months service shall have been completed and creditable service shall then begin to accrue. Any such employee on becoming a member of the System, after service of said nine (9) months, may elect to personally make a lump sum contribution directly to the System for the said nine (9) months of service rendered prior to membership, under rules and regulations established by the Board of Trustees, and membership service shall then be granted for the said period, provided said contribution shall be made within a period of three (3) months from date said employee became a member of the System.

C. Should any member in any period of six (6) consecutive years after becoming a member be absent from service more than sixty (60) consecutive months he would automatically terminate membership if he had less than twenty (20) years creditable service, or should he withdraw his accumulated contributions, or should he become a beneficiary, or upon death, he shall thereupon cease to be a member. However, during the time the United States is in a state of war and for a period of twelve (12) months thereafter, time spent by a member of the Employees Retirement System (1) in the Armed Forces of the United States of America and their auxiliaries and/or in the Armed Forces Reserve of the United States of America and their auxiliaries and/or in the service of the American Red Cross as a result of having volunteered or having been drafted and/or conscripted thereinto, or (2) in war work as a direct result of having been drafted and/or conscripted into said war work, shall not be construed as absent from service in so far as the provisions of this Act are concerned, but shall count towards membership service.

D. Any employee who elects not to become a member of the Retirement System as herein provided as of September 1, 1947, and the ninety (90) days next following, may make application thereafter and be entitled to membership but without claim for prior service credit.

E. Anyone who has been employed in the State of Texas in accordance with the terms of this Act, but who is not in service at the time in which

the Act becomes effective, shall, if he becomes an employee within two (2) years of the date on which this Act becomes effective, and if he continues as such for a period of five (5) consecutive years, be entitled to receive credit and resulting benefits for prior service as provided for in this Act.

F. Any member may withdraw from the service prior to the attainment of sixty (60) years who shall have completed at least twenty (20) years of service and shall be eligible for service retirement allowance upon attainment of the age of sixty (60) or later at his option.

G. Any employee who has attained the age of sixty (60) years and has had ten (10) or more years of service when this Act becomes effective, and who elects to become a member of the System, may remain in the State's service past the age of sixty-five (65) as long as he is capable of serving the State efficiently in any position in which he is employed, but upon attaining the age of seventy (70) years such employee shall cease to be a participating member of the Retirement System and shall become ineligible to receive any benefits from the System except such benefits to which he would have been lawfully entitled if he had retired at the age of seventy (70) years, provided, however, no person shall ever become eligible for a service retirement allowance until he has actually retired from the State's service.

Sec. IV. Creditable Service.

A. Under such rules and regulations as the State Board of Trustees shall adopt each person who was employed, as defined in this Act, at any time prior to the establishment of the System, and who becomes a member within two (2) years after establishment of the Retirement System and continues as such for a period of five (5) consecutive years, or who was a member at the beginning of the System, shall file a detailed statement of all Texas service, as an employee, rendered by him prior to the date of establishment of the Retirement System for which he claims credit.

B. The State Board of Trustees shall fix and determine by appropriate rules and regulations how much service in any year is equivalent to one (1) year of service, but in no case shall more than one (1) year of service be creditable for all service in one (1) year.

C. Subject to the above restrictions and to such other rules and regulations as the State Board of Trustees may adopt, the State Board of Trustees shall verify and adjust, as soon as practicable after the filing of such statements of service, the service therein claimed.

D. Upon adjustment and verification of the statements of service, the State Board of Trustees shall issue prior service certificates certifying to each member the length of Texas service rendered prior to the date of the establishment of the Retirement System, with which he is credited on the basis of his statement of service. So long as membership continues a prior service certificate shall be final and conclusive for retirement purposes as to such service, provided, however, that any member may, within one (1) year from the date of issuance or modification of such certificate, request the State Board of Trustees to modify or correct his prior service certificate. When membership ceases, such prior service certificate shall become void. Should the employee again become a member, such person shall enter the System as a member not entitled to prior service credit except as provided in Section V, Subsection E, Part 2, of this Act.

E. Creditable service at retirement on which the retirement allowance of a member shall be based shall consist of the membership service rendered by him since he last became a member, and also, if he has a prior service certificate which is in full force and effect, the amount of the service credited on his prior service certificate. No member shall be entitled to a retirement allowance until he has accumulative ten (10) or more years of creditable service in Texas.

Sec. V. Benefits.

A. Service Retirement Benefits.

Any member may retire upon written application to the State Board of Trustees, setting forth at what time, not less than thirty (30) days or more than ninety (90) days subsequent to the execution of and filing thereof, he desires to be retired, provided that retirement will be effective only as of the last day of a calendar month, and provided that the said member at the time so specified for his retirement shall have attained the age of sixty (60) years and shall have completed ten (10) or more years of creditable service. Any mem-

ber in service who has attained the age of sixty-five (65) years shall be retired forthwith, provided that with the approval of his employer he may remain in service until seventy (70), at which date he shall be retired regardless of position with the State.

Any member may withdraw from service prior to the attainment of the age of sixty (60) years who shall have completed at least twenty (20) years of creditable service and shall become entitled to a service retirement allowance upon his attainment of the age of sixty (60) years, or at his option, at any date subsequent to his attainment of said age provided that such member was then living and had not withdrawn his contributions.

Any member may withdraw from service prior to the attainment of the age of sixty (60) years who shall have completed at least thirty (30) years of creditable service and shall become entitled to a service retirement allowance immediately regardless of attained age.

B. Allowance for Service Retirement.

Upon retirement for service a member shall receive a service retirement allowance consisting of a membership annuity, which shall be the actuarial equivalent of his membership annuity reserve, and a prior service annuity to which his creditable service and membership in the Retirement System entitles him under the provisions of this Act.

1. His membership annuity reserve shall be derived from:

a. His accumulated contributions credited to his account in the Employees Saving Fund at the time of retirement; and

b. An additional sum from the State Membership Accumulation Fund equal to the accumulated contributions provided by the member in Paragraph a, Part 1, of this Subsection.

2. If he has a prior service certificate in full force and effect, the prior service annuity shall be one and one-quarter per cent (1¼%) of his average prior service compensation, as defined in this Act, multiplied by the number of years of Texas service certified in his prior service certificate; provided that the maximum number of years of prior service to be allowed shall be thirty-six (36) years and that in computing his average prior service compensation, the

maximum prior service salary for any one (1) year shall be Three Thousand, Six Hundred Dollars (\$3,600). In computing the average prior service compensation for employees who served in the Armed Forces on leaves of absence from the State and subsequently became members of the System, that time spent in the Armed Forces shall be counted as part of the ten (10) years immediately preceding the enactment of the law and the basis for compensation shall be the same that was earned at commencement of his leave of absence from the State.

C. Disability Retirement Benefits.

Upon the application of a member or his employer or his legal representative acting in his behalf, any member who has had ten (10) or more years of creditable service may be retired by the State Board of Trustees, not less than thirty (30) and not more than ninety (90) days next following the date of filing such application, on a disability retirement allowance, provided that the Medical Board, after a medical examination of such member, shall certify that such member is mentally or physically incapacitated for the further performance of duty, that such incapacity is likely to be permanent, and that such member should be retired.

D. Allowance on Disability Retirement.

Upon retirement for disability a member shall receive a service retirement allowance if he has attained the age of sixty (60) years; otherwise, he shall receive a disability retirement allowance consisting of a membership annuity which shall be the actuarial equivalent of his membership annuity reserve, and a prior service annuity to which his creditable service and membership in the Retirement System entitles him under the provisions of this Act.

1. His membership annuity reserve shall be derived from:

a. His accumulated contributions credited to his account in the Employees Saving Fund at the time of retirement; and

b. An additional sum from the State Membership Accumulation Fund equal to the accumulated contributions provided by the member in paragraph a, Part 1, of this subsection.

2. If he has a prior service certificate in full force and effect, he shall receive a prior service annuity equal to

the prior service annuity provided in Part 2, Subsection B, Section V, of this Act.

E. Beneficiaries Retired on Account of Disability.

Once each year during the first five (5) years following retirement of a member on a disability retirement allowance, and once in every three-year period thereafter, the State Board of Trustees may, and upon his application shall, require any disability beneficiary who has not yet attained the age of sixty (60) years to undergo a medical examination, such examination to be made at the place of residence of said beneficiary or any other place mutually agreed upon, by a physician or physicians designated by the State Board of Trustees. Should any disability beneficiary who has not yet attained the age of sixty (60) years refuse to submit to at least one medical examination in any such periods by a physician or physicians designated by the State Board of Trustees, his allowance shall be discontinued until his withdrawal of such refusal, and should his refusal continue for one (1) year, all his rights in and to his allowance shall be revoked by the State Board of Trustees.

1. Should the Medical Board report and certify to the State Board of Trustees that such disability beneficiary is no longer physically or mentally incapacitated for the performance of duty, or that such disability beneficiary is engaged in or is able to engage in gainful occupation, and should the State Board of Trustees by a majority vote concur in such report, then the amount of his allowance shall be discontinued or reduced to an amount by which the amount of the last year's salary of the beneficiary, as an employee, exceed his present earning capacity. Should his earning capacity be later changed, the amount of his allowance may be further modified; provided that the revised allowance shall not exceed the amount of the allowance originally granted, nor shall it exceed an amount which, when added to the amount earnable by the beneficiary, equals the amount of his compensation for the last year prior to retirement.

2. Should a disability beneficiary under the age of sixty (60) years be restored to active service, his retirement allowance shall cease, he shall again become a member of the Retirement System, and any reserve on

his membership annuity at that time in the Membership Annuity Reserve Fund shall be transferred to the Employees Saving Fund and to the State Membership Accumulation Fund, respectively, in proportion to the original sum transferred to the Membership Annuity Reserve Fund at retirement. Upon restoration to membership, any prior service certificate on the basis of which his service was computed at the time of his retirement shall be restored to full force and effect, and in addition, upon his subsequent retirement he shall be credited with all his membership service. No member eligible to retire for service at sixty (60) years of age shall be allowed to retire on a disability allowance. Should a disability beneficiary die or be removed from the disability list for any cause other than restoration to active service, an amount equal to the amount by which such beneficiary's accumulated contributions at the time of disability retirement exceed the membership service annuity payment received by such beneficiary under his disability allowance, if any such excess exists, shall be paid from the Membership Annuity Reserve Fund to such beneficiary if living; otherwise, such amount shall be paid as provided by the laws of descent and distribution of Texas unless the beneficiary has directed such amount to be paid otherwise.

F. Return of Accumulated Contributions.

Should a member with less than twenty (20) years creditable service cease to be an employee except by death or retirement under the provisions of this Act, he shall be paid in full the amount of the accumulated contributions standing to the credit of his individual account in the Employees Saving Fund. Should a member die before retirement, the amount of his accumulated contributions standing to the credit of his individual account shall be paid as provided by the laws of descent and distribution of Texas unless he has directed the account to be paid otherwise. Seven (7) years after such cessation of service, if no previous demand has been made, any accumulated contributions of a contributor shall be returned to him or to his heirs. If the contributor or his heirs cannot then be found, his accumulated contributions shall be forfeited to the Retirement System

and credited to the Permanent Retirement Fund.

B. Optional Allowances for Service Retirement.

With the provision that no optional selection shall be effective in case a beneficiary dies within thirty (30) days after retirement, and that such a beneficiary shall be considered as an active member at the time of death, until the first payment on account of any service benefit becomes normally due, any member may elect to receive his membership annuity in an annuity payable throughout life, or he may elect to receive the actuarial equivalent at that time, of his membership annuity in a reduced membership annuity payable throughout life with the provision that:

Option (1) Upon his death, his reduced membership annuity shall be continued throughout the life of, and paid to, such person as he shall nominate by written designation duly acknowledged and filed with the State Board of Trustees at the time of his retirement; or

Option (2) upon his death, one-half of his reduced membership annuity shall be continued through the life of, and paid to, such person as he shall nominate by written designation duly acknowledged and filed with the State Board of Trustees at the time of his retirement; or

Option (3) Some other benefit or benefits shall be paid either to the member, or to such person or persons as he shall nominate, provided such other benefit or benefits, together with the reduced membership annuity, shall be certified by the actuary to be of equivalent actuarial value to his membership annuity, and approved by the State Board of Trustees.

With the provision that no optional selection shall be effective in case a beneficiary dies within thirty (30) days after retirement and that such a beneficiary shall be considered as an active member at the time of death, until the first payment on account of any service benefit becomes normally due, any member may elect to receive his prior service annuity in an annuity payable throughout life or he may elect to receive the actuarial equivalent at that time, of his prior service annuity in a reduced prior service annuity payable as provided in Option (1), (2), or (3) above, provided that all payments under all prior service annuities are

subject to adjustment by the State Board of Trustees as provided in Section V, Subsection B, Part 2, of this Act; provided further, that the same option must be selected by a member for the payment of his prior service annuity as is selected by the member for the payment of his membership service annuity.

H. Credit for Military Service.

During the period of time the United States is in a state of war and for a period of 12 months thereafter, time spent by a member of the Employees Retirement System (1) in the Armed Forces of the United States and their auxiliaries or in the Armed Forces Reserve and their auxiliaries or in the American Red Cross, or (2) in war work as a direct result of having been drafted or conscripted into said war work, shall count towards membership service. In addition, a member of the Employees Retirement System shall be permitted to contribute each year to the Retirement System a sum not to exceed the amount contributed by him to said Retirement System during the last year that he was employed as a member under the provisions of the Retirement Act. The funds so contributed shall be deposited to the credit of the member's individual account and shall be treated in the same manner as funds contributed by the member while he was employed by the State. Any employee of the State who entered military service prior to the establishment of the Retirement System, either by induction or enlistment, will be entitled to prior service credit for the time prior to establishment of System and membership service for the time subsequent to the establishment of the System. Any employee so absent shall have the right to contribute to said System either during his service with Armed Forces or upon return an amount equal to the contributions which would have been made by him based on his compensation earnable at commencement of his absence, provided such employee re-enters the service of the State within sixty (60) days after the termination of his military service and elects to become a member of the System within sixty (60) days after such re-employment.

In computing the average prior service compensation for employees who served in the Armed Forces on leaves of absence from the State and subsequently became members of the Sys-

tem, that time spent in the Armed Forces shall be counted as part of the ten (10) years immediately preceding the enactment of the law and the basis for compensation shall be the same that was earned at commencement of his leave of absence from the State.

Sec. VI. Administration.

A. State Board of Trustees.

1. The general administration and responsibility for the proper operation of the Retirement System and for making effective the provisions of the Act are hereby vested in a State Board of Trustees which shall be organized immediately after a majority of the Trustees provided for in this Section shall have qualified and taken the oath of office.

2. The Board shall consist of seven (7) trustees, as follows:

a. The State Life Insurance Commissioner, ex officio.

b. The Chairman of the State Board of Control of Texas, ex officio.

c. The Chairman of the Texas Highway Commission, ex officio.

d. Attorney General, ex officio.

e. Three (3) of the Trustees shall be members of the Retirement System and shall be nominated by the members of the Retirement System for a term of six (6) years each, according to such rules and regulations as the State Board of Trustees shall adopt to govern such nominations, provided that the first three (3) employees to serve as members of the State Board of Trustees shall be appointed by the Governor and confirmed by the Senate from a list of seven (7) employees nominated by the ex-officio members of the Board of Trustees. The terms of office of the first three (3) employee-trustees shall begin immediately after they have qualified and taken the oath of office. They shall draw for terms of two (2), four (4), and six (6) years. Thereafter the State Board of Trustees shall provide for the nomination of three (3) employee-members biennially by popular election of the members of the Retirement System, from which the Governor shall appoint one member to the State Board of Trustees; said member shall be subject to confirmation by two-thirds vote of the State Senate. The members so appointed shall serve for terms of six (6) years, or until their successors are qualified.

3. If a vacancy occurs in the office of a trustee, the vacancy shall be

filled for the unexpired term in the same manner as the office was previously filled.

4. The Trustees shall serve without compensation, but they shall be reimbursed from the Expense Fund for all necessary expenses that they may incur through service on the Board.

5. Each Trustee shall, within ten (10) days after his appointment, in addition to the constitutional oath, subscribe to the following oath of office: "I do solemnly swear that I will, to the best of my ability, discharge the duties of a Trustee of the Employees Retirement System and will diligently and honestly administer the affairs of the Board of Trustees of said Retirement System and that I will not knowingly violate or willingly permit to be violated any of the provisions of law applicable to said Retirement System." This oath shall be subscribed to by members making it before any officer qualified to administer oaths in Texas, and duly filed in the office of the Secretary of State.

6. Each Trustee shall be entitled to one vote in the Board. A majority of the State Board of Trustees shall constitute a quorum and a majority vote of those present shall be necessary for a decision by the Trustees at any meeting of said Board.

7. Subject to the limitations of this Act, the State Board of Trustees shall, from time to time, establish rules and regulations for eligibility of membership and for the administration of the funds created by this Act and for the transaction of its business.

8. The State Board of Trustees shall elect from its membership a Chairman and shall by a majority vote of all its members appoint an Executive Secretary who shall not be one of its members. The Executive Secretary appointed shall have been a citizen of Texas three (3) years immediately preceding his appointment, shall have executive ability and experience to carry out the duties of his office and shall hold his position until removed by the Board. He shall recommend and nominate to the State Board of Trustees such actuarial and other service as shall be required to transact the business of the Retirement System. The compensation of all persons engaged by the State Board of Trustees, and all other expenses of the Board necessary for the operation of the Retirement System, shall be paid at such rates and in such amounts as the State Board

of Trustees shall approve, provided that in no case shall they be greater than that paid for like or similar service of the State of Texas.

9. The State Board of Trustees shall keep in convenient form such data as shall be necessary for actuarial valuation of the various funds of the Retirement System and for checking the expenses of the System.

10. The State Board of Trustees shall keep a record of all its proceedings which shall be open to public inspection. It shall publish annually a report showing the fiscal transactions of the Retirement System for the preceding year, the amount of the accumulated cash and securities of the System, and the last balance sheet showing the financial condition of the System by means of an actuarial valuation of the assets and liabilities of the Retirement System.

B. Legal Adviser.

The Attorney General of the State of Texas shall be the legal adviser of the State Board of Trustees, and shall represent it in all litigations.

C. Medical Board.

The State Board of Trustees shall designate a Medical Board to be composed of three (3) physicians not eligible to participate in the Retirement System. The physicians so appointed by the State Board of Trustees shall be legally qualified to practice medicine in Texas and shall be physicians of good standing in the medical profession. If required, other physicians may be employed to report on special cases. The Medical Board shall pass upon all medical examinations required under the provisions of this Act, and shall investigate all essential statements and certificates by or on behalf of a member in connection with an application for disability retirement, and shall report in writing to the the State Board of Trustees its conclusions and recommendation upon all matters referred to it.

D. Duties of Actuary.

1. The State Board of Trustees shall designate an Actuary who shall be thoroughly qualified to act as the technical adviser of the State Board of Trustees on matters regarding the operation of the funds created by the provisions of this Act, and shall perform such other duties as are required in connection therewith.

2. Immediately after the establishment of the Retirement System, the Actuary shall make such investigation

of the mortality, service, and compensation experience of the members of the System as he shall recommend and the State Board of Trustees shall authorize, and on the basis of such investigation he shall recommend for adoption by the State Board of Trustees such tables and such rates as are required. The State Board of Trustees shall adopt tables and certify rates, and as soon as practicable thereafter, the Actuary shall make a valuation based on such tables and rates, of the assets and liabilities of the funds created by this Act.

3. At least once in each five-year period following the establishment of the System, the Actuary shall make, under the direction of the Board, an actuarial investigation into the mortality, service, and compensation experience of the members and beneficiaries of the Retirement System, and shall make a valuation of the assets and liabilities of the funds of the System, and taking into account the result of such investigation and valuation, the State Board of Trustees shall adopt for the Retirement System such mortality, service, and other tables as shall be deemed necessary.

4. On the basis of such tables as the State Board of Trustees shall adopt, the Actuary shall make an annual valuation of the assets and liabilities of the funds of the System created by this Act.

Sec. VII. Management of Funds.

A. The State Board of Trustees shall be the trustees of the several funds as herein created by this Act, and shall have full power to invest and reinvest such funds subject to the following limitations and restrictions: All retirement funds as are received by the Treasury of the State of Texas from contributions of employees and employer as herein provided, may be invested only in bonds of the United States, the State of Texas, or counties, or cities, or school districts of this State, wherein said counties, or cities, or school districts have not defaulted in principal or interest on bonds within a period of ten (10) years, or in bonds issued by any agency of the United States Government, the payment of the principal and interest on which is guaranteed by the United States; and in interest-bearing notes or bonds of the University of Texas issued under and by virtue of Chapter 40, Acts of the Forty-third Legislature, Second Called Session; provided that a sufficient

amount of said funds shall be kept on hand to meet the immediate payment of the amounts that may become due each year as provided in this Act. The State Board of Trustees shall have full power by proper resolution to hold, purchase, sell, assign, transfer, and dispose of any of the securities and investments in which any of the funds created herein shall have been invested, as well as the proceeds of said investments and any moneys belonging to said funds, provided that any money on hand shall be subject to the State Depository Laws of Texas.

B. The State Board of Trustees annually, on August 31st, shall in accordance with Section VIII, Subsection A, Part 7, Paragraph c, of this Act transfer from the Interest Fund to the Expense Fund an amount as shall be determined by the Board to be necessary for the payment of expenses of the Retirement System in excess of the amount available to be paid from the Expense Fund to cover the expenses as estimated for the succeeding year. The State Board of Trustees annually, on August 31st, shall allow regular interest on the mean amount in the Membership Annuity Reserve Fund for the year then ending and shall allow regular interest on the mean amount in the Prior Service Annuity Reserve Fund for the year then ending and shall allow current interest as defined in Section I, Subsection M, of this Act on the amount in the State Membership Accumulation Fund at the beginning of such year and on the amount in the Permanent Retirement Fund at the beginning of such year and on an amount in the Employees Saving Fund equal to the sum of the accumulated contributions standing to the credit at the beginning of such year of all members included in the membership of the System on August 31st of such year, before any transfers for Service Retirement effective August 31st of such year are made. The amounts so allowed shall be due and payable to said funds and shall be credited thereto by the State Board of Trustees on August 31st of each year from the moneys of the Retirement System held in the Interest Fund, provided that current interest shall not be at a rate greater than three and one-half per cent ($3\frac{1}{2}\%$) per annum and that any excess earnings over such amount required shall be paid to the Interest Reserve Ac-

count of the Permanent Retirement Fund.

C. The Treasurer of the State of Texas shall be the custodian of all bonds, securities, and funds. All payments from said funds shall be made by him on warrants drawn by the State Comptroller of Public Accounts supported only upon vouchers signed by the Secretary of the Retirement System and the Chairman of the State Board of Trustees. A duly attested copy of a resolution of the State Board of Trustees designating such persons shall be filed with said Comptroller as his authority for issuing such warrants.

D. For the purpose of meeting disbursements for annuities and other payments there may be kept available cash, not exceeding ten per cent (10%) of the total amount in the several funds of the Retirement System, on deposit with the State Treasurer.

E. No trustee and no employee of the State Board of Trustees shall have any direct or indirect interest in the gains or profits of any investment made by the State Board of Trustees, nor as such receive any pay or emolument for his services other than his designated salary and authorized expenses, except such interest as such person or persons may have in the retirement funds as a member in the Retirement System.

Sec. VIII. Method of Financing.

A. The amount contributed by each member to the Retirement System shall be five per cent (5%) of the regular annual compensation paid to each member. The amount contributed by the State of Texas to the Retirement System shall not exceed during any one (1) year five per cent (5%) of salaries of all members, disregarding salaries in amounts in excess of Three Thousand, Six Hundred Dollars (\$3,600), provided the total amount contributed by the State during any one (1) year shall at least equal the total amount contributed during the same year by all members of the Retirement System; provided further that all contributions made by the State shall be from and charged to the respective funds appropriated, allocated, and provided to pay the salary or compensation of the employee for whose benefit the contribution is made. All of the assets of the Retirement System shall be credited according to the purpose for which they are held to one (1)

of seven (7) funds, namely, the Employees Saving Fund, the State Membership Accumulation Fund, the Membership Annuity Reserve Fund, the Prior Service Annuity Reserve Fund, the Interest Fund, the Permanent Retirement Fund, and the Expense Fund.

1. The Employees Saving Fund.

The Employees Saving Fund shall be a fund in which shall be accumulated regular five per cent (5%) contributions from the compensation members, including current interest earnings. Contributions to and payments from the Employees Saving Fund shall be made as follows:

a. Beginning on the date of the establishment of the membership and full operation of the Retirement System herein created, which date should be two (2) to three (3) months subsequent to the enactment of the Retirement Law, each department of the State shall cause to be deducted from the salary of each member on each and every pay roll of such department of the State for each and every pay roll period, five per cent (5%) of his earnable compensation, provided that the sum of the deductions made for a member shall not exceed One Hundred and Eighty Dollars (\$180) during any one (1) year. In determining the amount earnable by a member in a pay roll period, the State Board of Trustees may consider the rate of annual compensation payable to such member on the first day of the pay roll period as continuing throughout such pay roll period, and it may omit deductions from compensation for any period less than a full pay roll period if an employee was not a member on the first day of the pay roll period, and to facilitate the making of deductions, it may modify the deduction required of any member by such an amount as shall not exceed one-tenth ($1/10$) of one per cent (1%) of the annual compensation upon the basis of which such deduction is to be made.

b. The deductions provided for herein shall be made notwithstanding that the minimum compensation provided for by law for any member shall be reduced thereby. Every member shall be deemed to consent and agree to the deductions made and provided for herein and shall receipt for his full salary or compensation, and payment of salary or compensation, less said deduction, shall be a full and complete discharge and acquittance of all claims and demands whatsoever

for the services rendered by such person during the period covered by such payment, except as to the benefits provided under this Act. The department head of the State shall certify to the State Board of Trustees on each and every pay roll, or in such other manner as said Board may prescribe, the amounts to be deducted; and each of said amounts shall be deducted, and when deducted shall be paid into said Employees Saving Fund, and shall be credited, to the individual account of the member from whose compensation said deduction was made.

c. Current Interest on members' contributions shall be credited annually as of August 31st and shall be allowed on the amount of the accumulated contributions standing to the credit of the member at the beginning of the year and shall not be allowed for parts of a year. Following the termination of membership in the Retirement System for those members who have been absent from service more than sixty (60) consecutive months in any period of six (6) consecutive years, the Employees Saving Fund account of such members shall be closed and warrants covering the total accumulated contributions sent to them upon the filing of formal application. Until the time of payment of such accumulated contributions, said employees shall receive no interest in the amount due them under this subsection, and the amount shall be held in a noninterest-bearing account to be set up for such purpose.

d. Upon the retirement of a member, his accumulated contributions shall be transferred from the Employees Savings Fund to the Membership Annuity Reserve Fund.

2. State Membership Accumulation Fund.

The State Membership Accumulation Fund shall be the fund in which shall be accumulated all contributions made to the Employees Retirement System by the State of Texas for the purpose of providing upon the retirement of each member an amount equal to such member's accumulated contributions; and from which shall be transferred to the Membership Annuity Reserve Fund at the retirement of a member an amount equal to the accumulated contributions of the member. Contributions to and payments from this fund shall be made as follows:

a. The State of Texas shall pay each year in equal monthly installments into the State Membership Accumulation Fund an amount equal to a per centum of the contributions of the members during each year, which shall be calculated by the Actuary and certified to the Comptroller by the State Board of Trustees as being the necessary and required per centum to maintain a reserve in this Fund equal to present and prospective liabilities of the Fund. "Present and prospective liabilities" as used herein shall mean at any time an amount equal to that amount in the Employees Saving Fund at that time, which will eventually be transferred to the Membership Annuity Reserve Fund, according to calculations made by the Actuary and approved by the State Board of Trustees on the basis of the mortality and other tables adopted by the State Board of Trustees. The State Board of Trustees shall certify annually to the Comptroller of Public Accounts and to the State Treasurer the amount so ascertained, and such an amount shall be paid each year in equal monthly installments in the manner hereinafter provided into the State Membership Accumulation Fund by the Comptroller from the funds appropriated as contributions to the Employees Retirement System by the State of Texas.

b. Upon the retirement of a member, an amount equal to his accumulated contributions in the Employees Saving Fund shall be transferred from the State Membership Accumulation Fund into the Membership Annuity Reserve Fund as a reserve for his Membership Annuity.

3. Membership Annuity Reserve Fund.

The Membership Annuity Reserve Fund shall be the fund in which shall be held all reserves for membership annuities granted and in force and from which shall be paid all membership annuities and all benefits in lieu of membership annuities, payable as provided in this Act. This Fund shall be made up of the transfers as follows:

a. At the time of service or disability retirement of the accumulated contributions of a retiring employee shall be transferred from the Employees Saving Fund to the Membership Annuity Reserve Fund as reserves for the membership annuity purchased by his contributions.

b. An amount equal to the accumu-

lated contributions of each retiring employee shall be transferred, upon service or disability retirement, from the State Membership Accumulation Fund as reserves for an additional membership annuity equal to the membership annuity purchased by the employee.

c. Transfer and payments from the Membership Annuity Reserve Fund shall be made as provided in Section V, Subsection E, Part 2, of this Act, upon the death, restoration to active service or removal from the disability list of a beneficiary retired on account of disability.

4. Prior Service Annuity Reserve Fund.

The Prior Service Annuity Reserve Fund shall be the fund in which shall be accumulated all contributions made to the Retirement System by the State of Texas for the purpose of providing the amounts required for payment of prior service annuities; and from which prior service annuities shall be paid to beneficiaries as herein provided. Contributions to and payments from this fund shall be made as follows:

a. All moneys appropriated by the State of Texas as contributions to the Employees Retirement System each year and which will not be paid into the State Membership Accumulation Fund as elsewhere herein provided shall be paid into the Prior Service Annuity Reserve Fund in the manner hereinafter provided.

b. All prior service annuity payments to beneficiaries, as provided in this Act, shall be paid from this fund.

5. Interest Fund.

The Interest Fund is hereby created to facilitate the crediting of interest to the various other funds. All income, interest, and dividends derived from the deposits and investments authorized by this Act shall be paid into the Interest Fund. Once each year on August 31st, interest shall be allowed and transferred to the other funds, respectively. The State Board of Trustees shall annually transfer to the credit of the interest reserve account of the Permanent Retirement Fund all excess earnings after all interest-bearing funds have been duly credited with interest for the year in the manner provided in this Act.

6. Permanent Retirement Fund.

The Permanent Retirement Fund shall be a fund in which shall be ac-

cumulated all gifts, awards, funds, and assets accruing to the Retirement System not specifically required by other funds created by this Act, and to provide a contingent fund out of which special requirements of other funds may be covered. The principal of this fund is hereby held and dedicated as perpetual endowment of the Retirement System and shall not be diverted or appropriated to any other cause or purpose. All current interest credited to this fund and excess interest earnings transferred to this fund shall be held as an interest reserve account from which the State Board of Trustees shall transfer annually to the Expense Fund such amounts as are required to provide for the administration and maintenance of the Retirement System, provided the funds are available.

7. Expense Fund.

The Expense Fund shall be the fund from which the expenses of administration and maintenance of the Retirement System shall be paid. Transfers to and payments from this fund shall be made as follows:

a. The Executive Secretary shall prepare annually an itemized budget showing the amount required to defray the expenses for the ensuing fiscal year and shall submit the report to the State Board of Trustees for its review and adoption.

b. Each member shall pay with the first payment to the Employees Saving Fund each year and each year thereafter he is a member of the System, and in addition thereto, a sum of Two Dollars (\$2), which amount shall be credited to the Expense Fund, said payments for the Expense Fund shall be made to the State Board of Trustees in the same way as payments to the Employees Saving Fund shall be made, as provided for in this Act; provided, however, that if said payment for the Expense Fund of any member is not made with said first payment of said member, the State Board of Trustees may deduct the amount of the payment for the Expense Fund from said first payment of said member.

c. If the amount estimated to be required to meet the expenses of the State Board of Trustees is in excess of Two Dollars (\$2) per member contributor for the year and if there is an insufficient amount in the interest reserve account of the Permanent Re-

tirement Fund to pay such excess, the State Board of Trustees as evidenced by a resolution by that Board recorded in its minutes shall transfer to the Expense Fund from the Interest Fund an amount necessary to cover the expenses as estimated for the year.

B. Collection of Contributions.

1. The Collection of members' contributions shall be as follows:

a. Each department of the State shall cause to be deducted on each and every pay roll of a member for each and every pay roll period beginning on the date of the establishment of the membership and full operation of the Retirement System the contributions payable by such member, as provided in this Act. Each department head of the State shall certify to the treasurer of said department on each and every pay roll a statement as vouchers for the amount so deducted.

b. The Treasurer or proper disbursing officer of each State department on authority from the department head shall make deductions from salaries of employees as provided in this Act, and shall transmit monthly, or at such time as the State Board of Trustees shall designate a certified copy of the pay roll and the amount specified to be deducted shall be paid to the Employees Saving Fund of the Employees Retirement System, after which the Executive Secretary of the Board of Trustees shall make a record of all receipts and turn payments over to the Treasurer of the State of Texas and by him be credited to the Employees Saving Fund, and such funds shall be deemed as appropriated for use according to the provisions of this Act.

6. The State Treasurer shall furnish annually to the State Board of Trustees a sworn statement of the amount of the funds in his custody belonging to the Retirement System. The records of the State Board of Trustees shall be open to public inspection and any member of the Retirement System shall be furnished with a statement of the amount to the credit of his individual account upon written request by such member, provided that the State Board of Trustees shall not be required to answer more than one such request of a member in any one year.

2. The Collection of the State's contributions shall be made as follows:

a. From and after the date of the establishment of the membership and full operation of the Retirement System created by this Act takes effect, there is hereby allocated and appropriated to the Employees Retirement System of Texas, in accordance with this Act, from the several funds from which the employees benefited by this Act; receive their respective salaries, a sum equal to five per cent (5%) of the total compensation paid to the said respective employees who are members of said Retirement System and whose compensation is paid from funds directly controlled by the state. The State Board of Trustees shall certify to the State Comptroller of Public Accounts and the State Treasurer at the end of each month the total amount of compensation paid such members of the Retirement System, and the State Comptroller shall thereupon transfer five per cent (5%) of this amount from the said respective funds from which said employees are paid to the State Employees Retirement Fund; and which money in said fund is hereby appropriated for the purposes provided by this Act for the balance of the fiscal year 1947 and the fiscal year 1948. Appropriations for the ensuing biennium shall be made according to Section VIII, Subsection B, Part 2, Paragraph a, b, and c of this Act.

b. Thereafter, on or before the first day of November next preceding each regular session of the Legislature, the State Board of Trustees shall certify to the State Board of Control for its review and adoption the amount necessary to pay the contributions of the State of Texas to the Employees Retirement System for the ensuing biennial. This amount shall equal five per cent (5%) of the total compensation paid members of the Retirement System and shall be included in the budget of the State which the Governor submits to the Legislature. The State Board of Trustees shall certify on or before August 31st of each year to the State Comptroller of Public Accounts and the State Treasurer the estimated amount of contributions to be received from members during the ensuing year.

c. All moneys hereby allocated and appropriated by the State to the Employees Retirement System shall be paid to the Employees Retirement System in equal monthly installments based upon the annual estimate by the State Board of Trustees of the

Employees Retirement System of the contributions to be received from the members of said System during said year, provided further in the event said estimate of the contributions of the members of the System shall vary from the actual amount of the employees' contributions during the year, then such adjustment shall be made at the close of each fiscal year as may be required. Each of said monthly installments shall be paid into the State Membership Accumulation Fund and the Prior Service Annuity Reserve Fund in the proportionate amount certified by the State Board of Trustees.

d. For the purpose of computing the total amount of the compensation of members under the provisions of the State Membership Accumulation Fund, Section VIII of this Act, the compensation of every member who receives in excess of Three Hundred Dollars (\$300) a month shall be computed as Three Hundred Dollars (\$300) per month.

Sec. IX. Exemption from Execution.

The right of a person to an annuity or a retirement allowance, to the return of contributions, annuity, or retirement allowance itself, any optional benefit or any other right accrued or accruing to any person under the provisions of this Act, and the moneys in the various funds created by this Act, are hereby exempt from any State or municipal tax, and exempt from levy and sale, garnishment, attachment or any other process whatsoever, and shall be unassigned except as in this Act specifically provided.

Sec. X. Protection Against Conversion of Funds and Fraud.

Any person who shall confiscate, misappropriate, or convert moneys representing deductions from employees' salaries before such moneys are received by the Retirement System or after such moneys are received by the Retirement System shall be guilty of a felony and upon conviction be punished by confinement in the State Penitentiary for any term of years not less than one (1) nor more than five (5). Any person who shall knowingly make any false statement, or shall falsify or permit to be falsified, any record or records of this Retirement System in any attempt to defraud such System as a result of such act shall be guilty of a felony and upon conviction be punished by confinement in the State Penitentiary for any term of years not less than one (1) or more than five

(5). Should any change or error in the records result in any member or beneficiary receiving from the Retirement System more or less than he would have been entitled to receive had the records been correct, the State Board of Trustees shall correct such error, and so far as practicable shall adjust the payments in such manner that the actuarial equivalent of the benefit to which such member or beneficiary was correctly entitled shall be paid.

Violation of Provisions.

Any person, including department heads, and any member of the employer and/or its treasurer or proper disbursing officer, who violates any provision of this Act other than those which the first paragraph of this Section applies shall be guilty of a misdemeanor and shall be fined not less than One Hundred Dollars (\$100) or more than One Thousand Dollars (\$1,000). Any member of the System who knowingly receives money as salary, which money should have been deducted from his salary under the provisions of this Act, shall be guilty of a misdemeanor and shall be fined not less than One Hundred Dollars (\$100) and not more than Five Thousand Dollars (\$5,000).

Sec. XI. Surety Bonds.

The Treasurer of the State of Texas shall, upon becoming custodian of the Employees Retirement Fund, give a bond in the sum of Fifty Thousand Dollars (\$50,000); the Executive Secretary shall give bond in the sum of Twenty-five Thousand Dollars (\$25,000), and the State Board of Trustees shall require any other employees and members of the State Board of Trustees to give bond in such amounts as the Board may deem necessary, conditioned that said bonded persons will faithfully execute the duties of the respective offices. All bonds shall be made with a good and solvent surety company, authorized to do business in the State of Texas, said bonds shall be made payable to the State Board of Trustees and shall be approved by it and the Attorney General of Texas. All expense necessary and incident to the execution of such bonds, including premiums thereon, shall be paid by the State Board of Trustees from the Expense Fund.

Sec. XII. Limitation on Membership.

No other provision of law in any other Statute which provides wholly

or partly at the expense of the State of Texas for pensions or retirement benefits for employees of the said State, their widows, or other dependents, shall apply to members or beneficiaries of the Retirement System established by this Act.

Sec. XIII.

The Legislature hereby reserves the right to amend any section, paragraph or any and all provisions of this Act as it may from time to time deem necessary.

Sec. XIV.

If any section or part of any section of this Act is declared to be unconstitutional, the remainder of the Act shall not thereby be invalidated. All provisions of the law inconsistent with the provisions of this Act are hereby repealed to the extent of such inconsistency.

Sec. XV.

The sum of Twenty-five Thousand Dollars (\$25,000), or so much thereof as may be necessary, is hereby appropriated from the General Revenue Fund of the State not otherwise appropriated for the purpose of organizing the Retirement System and establishing an office. This sum shall be credited to said Expense Fund.

Sec. XVI.

The importance of this measure to the people thereof, creates an emergency and an imperative public necessity that the Constitutional Rule requiring bills to be read on three several days in each House, be and the same is hereby suspended, and that this Act take effect and be in force from and after its passage, and it is so enacted.

The report was read.

Question—Shall the report be adopted?

Bills and Resolutions Signed

The President signed in the presence of the Senate, after giving due notice thereof, the following enrolled bills and resolutions:

S. B. No. 350, A bill to be entitled "An Act appropriating the sum of \$1,200.00 or so much as may be necessary to satisfy, according to the terms thereof, the judgment rendered against the State of Texas in favor of A. M. Stark in Cause No. 8451 in the District Court of Orange County, Texas. Said judgment having become a final judgment; and declaring an emergency."

S. B. No. 74, A bill to be entitled "An Act granting aid to the property in and inhabitants of Hidalgo Coun-

ty, Texas, and to Hidalgo County made necessary by reason of its location on the Gulf Coast and by reason of calamitous overflows, floods, storms, and freezes which cause great destruction of property and loss of life; remitting, releasing, granting and donating to the property in and inhabitants of said County and to Hidalgo County all State ad valorem taxes for general revenue purposes levied or to be levied on property in said county limiting the rolling stock of railroads and three-fourths of the State occupation taxes, for the years 1924 to 1958, both inclusive; providing that if any part of this Act be held unconstitutional it shall not affect any other part of this Act, and declaring an emergency."

S. C. R. No. 47, Memorializing Congress to enact H. R. 881 and H. R. 1199, granting tax exemptions to those held prisoners by the Japanese.

S. C. R. No. 49, Requesting the Governor to return S. B. No. 148 to the Senate for further consideration.

S. C. R. No. 50, Suspending the Joint Rules to consider S. B. No. 296 on House Bill Day.

Adjournment

Senator Lane moved that the Senate adjourn until 10:30 o'clock a. m. Monday.

Senator York moved that the Senate adjourn until 10:30 o'clock a. m. tomorrow.

Question first recurring on the motion of Senator Lane, yeas and nays were demanded.

The motion prevailed by the following vote:

Yeas—17

Brown	Knight
Bullock	Lane
Chadick	Moffett
Crawford	Morris
Hardeman	Strauss
Harris	Taylor
Hazlewood	Tynan
Jones	Winfield
Kelly of Tarrant	

Nays—5

Aikin	Vick
Parrish	York
Phillips	

Absent

Carney	Ramsey
Cousins	Weinert

Absent—Excused

Kelley of Hidalgo	Stanford
Mauritz	Stewart
Proffer	

The Senate, accordingly, at 5:10 o'clock p. m., adjourned until 10:30 o'clock a. m. Monday, May 26, 1947.

SEVENTY-SECOND DAY

(Monday, May 26, 1947)

The Senate met at 10:30 o'clock a. m., pursuant to adjournment, and was called to order by Senator Parrish.

The roll was called and the following Senators were present:

Brown	Kelly of Tarrant
Carney	Morris
Cousins	Parrish

Senator Cousins moved that the Senate adjourn until 10:30 o'clock a. m. tomorrow out of respect to the memory of Senator Fred Mauritz, who died on Saturday, May 24, 1947.

The motion prevailed.

The Senate, accordingly, at 10:35 o'clock a. m., adjourned until 10:30 o'clock a. m., tomorrow.

SEVENTY-THIRD DAY

(Tuesday, May 27, 1947)

The Senate met at 10:30 o'clock a. m., pursuant to adjournment, and was called to order by the President.

The roll was called and the following Senators were present:

Aikin	Knight
Brown	Lane
Bullock	Moffett
Carney	Morris
Chadick	Parrish
Cousins	Phillips
Crawford	Proffer
Hardeman	Ramsey
Harris	Stanford
Hazlewood	Stewart
Jones	Strauss
Kelley of Hidalgo	Taylor
Kelly of Tarrant	Tynan